



Journal of the Senate

State of Indiana

114th General Assembly

Second Regular Session

Thirty-second Meeting Day

Monday Afternoon

March 13, 2006

The Senate convened at 1:46 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

The Senate Reader was directed to read the previously read section of the District Court's Order in *Hinrichs v. Bosma*, as set out in full in the Senate Journal of January 9, 2006.

Silent prayer followed the reading.

The Pledge of Allegiance to the Flag was led by the President of the Senate.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Becker	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Craycraft	Mishler
Delph	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Simpson
Harrison	Sipes
Heinold	Skinner
Hershman	Smith
Howard	Steele
Hume	Tallian
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 356: present 50. The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Pursuant to Senate Rule 83(j) your Committee on Rules and Legislative Procedure to which was referred Conference Committee Reports filed on Engrossed Senate Bills 106, 266, 284, and 305 and Engrossed House Bill and 1117 has had the same under consideration and begs leave to report back to the Senate with the recommendation that said Conference Committee Reports eligible for

consideration.

GARTON, Chair

Report adopted.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 64

Senate Concurrent Resolution 64, introduced by Senator Lubbers:

A CONCURRENT RESOLUTION urging the Legislative Council to establish an interim study committee to study issues pertaining to early learning and reading.

Whereas, Article 8, Section 1 of the Indiana Constitution establishes that knowledge and learning are essential to the preservation of a free government;

Whereas, Early learning opportunities promoting reading readiness are critical because students must learn to read before they can read to learn;

Whereas, Experts agree the earliest years of a child's life—in the home, in the neighborhood, and in early education programs like kindergarten—are key to predicting success in school and life;

Whereas, Children who are not provided with the necessary early learning opportunities and reading readiness skills typically enter first grade behind their peers and struggle throughout their schooling;

Whereas, Early learning and reading readiness are keys to eliminating the student achievement gap that exists at all levels of Indiana's education system;

Whereas, Students who do not learn to read well early on are at a higher risk of dropping out of school and are subject to limited opportunities in their adult lives;

Whereas, The English/language arts test scores of Indiana's students on state and national assessments have remained relatively unchanged over the past ten years and are not segregated to show true comprehension skills;

Whereas, Students who lack early learning opportunities and strong literacy skills often struggle as adults to earn a wage that can support a family and face difficulties in helping their own children succeed in school;

Whereas, Today's policymakers are more clear about what we expect children to be able to do when they enter first grade so that early education and kindergarten programs can be geared toward

specific measurable goals;

Whereas, Early learning and kindergarten research shows that gains in academic achievement, lower grade retention rates, improved attendance and social skills, and fewer special education referrals; and

Whereas, Educated and productive citizens are fundamental to ensuring a strong democracy, a successful economy, and the health and welfare of the people of Indiana: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Legislative Council is urged to establish and interim study committee to study the issues pertaining to early learning and reading.

SECTION 2. That the study committee, if established, shall study and make recommendations concerning the following issues:

- a. In the area of assessment, to investigate the most efficient way of disaggregating reading scores from English/language arts ISTEP-Plus results to transparently show student proficiency and weaknesses;
- b. In the area of content and curriculum, to increase the emphasis on reading in all content areas and at all grades;
- c. In the area of textbook adoption, to strengthen rigor of reading levels among all subject areas;
- d. In the areas of libraries and media centers, to survey local schools regarding the age, student usage, interest, and need of printed materials;
- e. In the area of best practices, to continue research by the Department on local, state, and national efforts to promote, increase, improve, and measure reading; and to continue research on the impact of early learning and kindergarten programs on academic achievement, grade retention, attendance, social skills, and special education referrals; and
- f. To inform the Governor, General Assembly, State Board, Education Roundtable, schools, businesses, and communities of Indiana of all findings.

SECTION 3. That the committee, if established, shall operate under the direction of the Legislative Council and shall issue a report when directed to do so by the Council.

SECTION 4. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to the Legislative Council.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

Senate Resolution 42

Senate Resolution 42, introduced by Senator Landske:

A SENATE RESOLUTION to urge the Legislative Council to establish an interim study committee to study issues pertaining to smoke detectors and sprinkler systems in health facilities.

Whereas, All Indiana health facility residents should be protected by sufficient fire protection systems;

Whereas, It is not known to what extent Indiana health facility residents are currently protected by smoke detection systems;

Whereas, Legislation in the 2006 Regular Session of the General Assembly will require data to be collected regarding the extent to which Indiana health facility residents are currently protected by smoke detection systems;

Whereas, There are currently no state licensing requirements for persons who install fire protection systems;

Whereas, These fire protection systems should be installed by licensed contractors and installers to ensure that the systems work properly and protect the residents as intended; and

Whereas, An interim study committee could determine the safety of Indiana health facility residents and recommend changes that need to be made in health facility environments to make them safer for the residents: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana Senate recognizes the importance of ensuring the safety of Indiana health facility residents.

SECTION 2. That the committee, if established, should:

- a. Study which Indiana health facilities currently have smoke detectors in resident rooms and the types of smoke detectors the facilities are using;
- b. Evaluate smoke detection systems currently available and determine which types of systems provide the greatest safety for health facility residents;
- c. Evaluate the fiscal impact of requiring all Indiana health facilities to install recommended smoke detection systems in each resident room;
- d. Review and make recommendations regarding the statewide licensing of fire sprinkler contractors and installers; and
- e. Consider any other issues pertaining to the safety of residents of Indiana health facilities.

SECTION 3. That the committee, if established, shall operate under the direction of the Legislative Council and that the committee shall present its findings and recommendations in a final report when directed to do so by the Legislative Council.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

Senate Resolution 43

Senate Resolution 43, introduced by Senator Landske:

A SENATE RESOLUTION to urge the Legislative Council to establish an interim study committee to study issues pertaining to the care and management of diabetes at school.

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the Legislative Council is urged to establish an interim study committee to study the issues relating to the care and management of student diabetes at school.

SECTION 2. That the interim study committee, if directed to take such action, shall operate under the direction of the Legislative Council and shall issue a report when directed to do so by the Council.

SECTION 3. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to the Legislative Council.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

SENATE MOTION

Madam President: I move that the Senate rescind its action whereby it adopted the Motion to Dissent on Engrossed Senate Bill 339 and that said Motion be withdrawn.

MERRITT

Motion prevailed.

MESSAGE FROM THE PRESIDENT OF THE SENATE

Members of the Senate: I have on the 10th day of March, 2006, signed Senate Enrolled Acts: 11, 35, 40, 55, 57, 71, 102, 111, 114, 147, 160, 206, 264, 310, 342, and 354.

REBECCA S. SKILLMAN
Lieutenant Governor

MESSAGE FROM THE GOVERNOR

Madam President and Members of the Senate: On March 9, 2006, I signed the following enrolled acts into law: SEA 232, 236, 246, 277, 332, 373, and 384.

MITCHELL E. DANIELS, JR.
Governor

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has appointed the following Representatives to a conference committee to confer with a like committee of the Senate on Engrossed Senate Bill 339:

Conferees:

Duncan and Pflum

Advisors:

Wolkins and Tyler

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 70 and the

same is herewith transmitted for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolutions 71, 72, and 73 and the same are herewith transmitted for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolution 60 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 21 Committee Report on Engrossed Senate Bill 235.

M. CAROLINE SPOTTS
Principal Clerk of the House

PRESIDENT PRO TEMPORE'S REPORT OF ASSIGNMENT OF CONFEREES

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed House Bill 1420:

Conferees: Gard and Breau

GARTON
Date: 3/13/2006
Time: 11:00 a.m.

Report adopted.

PRESIDENT PRO TEMPORE'S REPORT OF ASSIGNMENT OF CONFEREES

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed House Bill 1080:

Conferees: Hershman and Hume
Advisors: Wyss and Rogers

GARTON
Date: 3/13/2006
Time: 10:11 a.m.

Report adopted.

**REPORT OF THE
PRESIDENT PRO TEMPORE**

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 339:

Conferees: Paul and Rogers

GARTON
Date: 3/9/2006
Time: 3:04 p.m.

Report adopted.

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 9, 2006, signed Senate Enrolled Act 283.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1013.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1022.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1028.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1097.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1106.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1112.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1113.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1124.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1136.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1156.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13,

2006, signed House Enrolled Act 1207.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1232.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1236.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1368.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1395.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1397.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1418.

ROBERT D. GARTON
President Pro Tempore

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 53

Senate Concurrent Resolution 53, introduced by Senator Waltz:

A CONCURRENT RESOLUTION to recognize and congratulate the home school students who make up the graduating class of 2006.

Whereas, The Indiana Foundation for Home Schooling (IFHS) hosts a statewide graduation ceremony each year to recognize home school students who are graduating;

Whereas, The IFHS 12th Annual Statewide Home School Graduation Ceremony for Indiana students will be held in Indianapolis in May 2006; and

Whereas, The Indiana Senate recognizes the achievements of the 2006 home school graduates and commends them on their accomplishment: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana Senate recognizes the Indiana Foundation for Home Schooling for hosting a graduation ceremony for graduating home school students.

SECTION 2. That the Indiana Senate congratulates each member of the 2006 Home School Graduating Class.

SECTION 3. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Beth Patterson of the Indiana Foundation for Home Schooling.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Frizzell.

Senate Concurrent Resolution 61

Senate Concurrent Resolution 61, introduced by Senators Wyss and Long:

A CONCURRENT RESOLUTION congratulating the Fort Wayne Bishop Luers High School girls basketball team on its Class 3A girls state basketball championship.

Whereas, Ninth ranked Fort Wayne Bishop Luers defeated seventh ranked Evansville Memorial to win the Class 3A girls basketball state championship by a score of 65 - 54;

Whereas, This victory gave the Knights a record fifth state championship; no other school has more than three;

Whereas, This year also marked the sixth girls basketball championship game the Knights have appeared in since 1999; no other school has appeared in more than four;

Whereas, This year's victory was the second state title for fifth-year coach Teri Rosinski, who had guided the Knights to the 3A title in 2002 and a runner-up finish in 2004;

Whereas, The Knights, who had a 24-4 record for the season, had a strong first quarter fired by Vini Dawson's 10 points, and outscored Evansville Memorial 24-10, tying a Class 3A state record for the most points in a quarter;

Whereas, Fort Wayne Bishop Luers was led by freshman Kelsey Wyss, who scored 21 points and had eight rebounds, and sophomore Amanda Pedro, who scored 13 points and had 14 rebounds;

Whereas, The Evansville Memorial Tigers never got closer than seven points throughout the game;

Whereas, Fort Wayne Bishop Luers finished the season with 17 straight victories;

Whereas, Teri Rosinski became the third woman to both play and coach in the state finals and, in 2002, the first to win a state championship; and

Whereas, Excellence of this caliber deserves special recognition: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly congratulates the members of the Bishop Luers High School girls basketball team on their victory in the Class 3A state basketball championship and wishes them continued success in the future.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to each member of the team, Coach Teri Rosinski, and Mary Keefer, principal of Fort Wayne Bishop Luers High School.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Borrer and GiaQuinta.

House Concurrent Resolution 73

House Concurrent Resolution 73, sponsored by Senator Lawson:

A CONCURRENT RESOLUTION congratulating the Plainfield Community School Corporation on having all its schools selected as Four Star School Award winners.

Whereas, The Four Star School Award is presented by Dr. Suellen Reed, Superintendent of Public Instruction for the state of Indiana, to schools in recognition of attaining scores in the top 25 percent of all Indiana schools in language arts, mathematics, total Indiana

Statewide Testing for Educational Progress (ISTEP) battery, and attendance during a particular school year;

Whereas, For the second year in a row, the Plainfield Community School Corporation has fulfilled these requirements, making this school corporation the only school corporation in Indiana to have all its schools earn Four Star status;

Whereas, The students and teachers of Plainfield Community School Corporation have received this honor because of their hard work, dedication to improvement, and strong desire to learn;

Whereas, The success of the Plainfield Community School Corporation can be attributed to the efforts of the principals, teachers, staff, students, and parents of all the schools working together to maintain the high level of achievement at their school;

Whereas, The success of the Plainfield Community School Corporation can be credited to good leadership skills, exceptional teachers, outstanding students, and great staffs; and

Whereas, The schools of the Plainfield Community School Corporation, Plainfield High School, Plainfield Middle School, Brentwood Elementary School, Central Elementary School, and Van Buren Elementary School, make a strong statement about the quality of Indiana teachers and the high scholastic standards that exist in Hoosier schools: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly congratulates the students and teachers of the Plainfield Community School Corporation on the selection of each school as a Four Star School and on the effort put forth by the students, teachers, and parents in obtaining this award and urges them to continue to strive for excellence in education throughout their lives.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Dr. Jerry Holifield, superintendent of the Plainfield Community School Corporation.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

House Concurrent Resolution 47

House Concurrent Resolution 47, sponsored by Senator Steele:

A CONCURRENT RESOLUTION honoring We Care Indiana.

Whereas, We Care Indiana, established in 2005, is a nonprofit organization created to help those who have been ravaged by natural

disasters;

Whereas, We Care Indiana came into being because of a desire on the part of the people of Lawrence County, Indiana, to help the people of the Gulf Coast following the landfall of Hurricane Katrina;

Whereas, We Care Indiana created a web site with the goal of not only collecting donations for those in need but also serving as a central point of contact;

Whereas, We Care Indiana has adopted the people of Lawrence County, Mississippi, and is focusing on the needs of the children;

Whereas, The children of Lawrence County, Mississippi, have been through so much hardship in recent days and are bravely trying to move forward with their lives;

Whereas, We Care Indiana is helping these children as they return to school by donating supplies such as backpacks, pencils, loose-leaf paper, folders with prongs and pockets, colored pencils, calculators, ink pens, crayons, magic markers, and compasses; and

Whereas, We Care Indiana is an excellent example of the caring nature of Hoosiers, who are ready, willing, and able to extend a hand of friendship and compassion in time of need: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That the Indiana General Assembly wishes to express its admiration for the dedication of these wonderful Hoosiers and to encourage them and all Hoosiers to continue to help those in need.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to Jim and Dana Sowders, Kelly Cobb, Dennis Turner, and Bedford Mayor Joe Klumpp.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

House Concurrent Resolution 71

House Concurrent Resolution 71, sponsored by Senator Miller:

A CONCURRENT RESOLUTION honoring Dr. E.B. Carver on the occasion of his retirement.

Whereas, After 47 years in the field of education, Dr. E.B. Carver will be retiring at the end of the 2006 school year;

Whereas, For the last 23 years, Dr. Carver has served as superintendent of the Franklin Township School Corporation;

Whereas, Before becoming superintendent, Dr. Carver was a high

school principal for 19 years, including four years at Franklin Central High School, and one year as interim superintendent of the Franklin Township School Corporation;

Whereas, One of the most memorable accomplishments of Dr. Carver's outstanding career is his skillful management of the tremendous growth in student enrollment;

Whereas, When Dr. Carver became superintendent in April 1984, there were 3,900 students in the school corporation; the number has now grown to 7,900 and the number of schools has grown from six in 1983 to 13 by 2009;

Whereas, Under the guidance of Dr. Carver, Franklin Township became the first school district in Marion County to reorganize grade levels in order to create an intermediate school that could provide a more appropriate educational setting for preadolescent students;

Whereas, Dr. Carver also established a Freshman Academy to provide a smoother transition for students moving from middle school to high school;

Whereas, During his time as superintendent, Dr. Carver developed a wonderful working relationship with the community by establishing the Franklin Township Education Foundation, developing a partnership with Indy Parks to create parkland for joint use by the schools and the community, and opening the fitness center and natatorium at Franklin Central High School to the public when the facilities are not in use by the students; and

Whereas, Dr. E.B. Carver has served the families of Franklin Township with distinction, leading the school corporation through a period of unprecedented growth: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That the Indiana General Assembly wishes to recognize the many accomplishments of Dr. E.B. Carver and to wish him well in his retirement.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Dr. E.B. Carver and his family.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

Senate Concurrent Resolution 62

Senate Concurrent Resolution 62, introduced by Senator Alting:

A CONCURRENT RESOLUTION congratulating the Central Catholic girls basketball team on winning the Class A State

Championship Title.

Whereas, The 31st Annual IHSAA Girls Basketball State Finals were held on March 4, 2006 at Conseco Fieldhouse in Indianapolis;

Whereas, In regional and semi-state competition, the Central Catholic Knights defeated Indianapolis Lutheran, Tri-Central, and Argos to earn the opportunity to compete in the State Finals;

Whereas, After opening the season with five straight losses, Central Catholic finished their title run at a record-setting level. The Knights set Class A title game records for free throws made (32) and attempted (43); and

Whereas, The Central Catholic Knights upset the South Central Rebels 75-68 to capture the school's first Girls State Basketball Title: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly congratulates the Central Catholic girls basketball team on winning the 2006 Class A State Championship.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Lafayette Catholic School System President, Timothy J. Bobillo; Central Catholic Jr./Sr. High School Principal, Joseph A. Brettnacher; Coach, Geoff Salmon; and to each member of the State Champion Knights basketball team.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Klinker, Micon, and T. Brown.

Senate Concurrent Resolution 63

Senate Concurrent Resolution 63, introduced by Senator Weatherwax:

A CONCURRENT RESOLUTION to congratulate Ana Baracaldo for earning a Prudential Spirit of Community Award.

Whereas, Created in 1995, the Prudential Spirit of Community Awards are presented by Prudential Financial in partnership with the National Association of Secondary School Principals (NASSP). The Prudential Spirit of Community Awards program is America's largest youth recognition program based exclusively on volunteerism;

Whereas, This prestigious award honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities. In the 11th annual Prudential Spirit of Community Awards, Ana Baracaldo of Converse was named the top high school volunteer in Indiana for 2006. She is a senior at Oak Hill

High School;

Whereas, Miss Baracaldo earned this award by giving generously of her time and energy to provide Spanish-language books to children at a needy school in her native country of Colombia. She founded "Books for Peace" after discovering that many children in rural areas of Colombia only go to school through eighth grade, that illiteracy rates are shockingly high there, and that young people often end up working in coca fields because of a lack of education;

Whereas, She aspires to give the Colombian youth a chance to share her love of books and allow them to say no to cocaine farming by educating themselves. With support from her parents, Miss Baracaldo created a brochure, spoke at churches and Rotary Clubs, wrote to publishers for donations, and solicited funds from companies, community groups, and friends. After collecting more than \$3,000 worth of books and \$2,000 in cash, she contacted the Colombian Ministry of Education to find a school that needed a library; and

Whereas, As a State Honoree, Miss Baracaldo will receive a \$1,000 award, an engraved silver medallion, and a trip to Washington, D.C., May 6-9 for a series of national recognition events. On May 8, a prestigious national selection committee will select five National Honorees from the high school State Honorees. The National Honorees receive additional \$5,000 awards, gold medallions, crystal trophies, and \$5,000 grants from The Prudential Foundation for nonprofit, charitable organizations of their choice: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly congratulates and honors Miss Ana Baracaldo as a recipient of a Prudential Spirit of Community Award. Recognizing her outstanding record of volunteer service, peer leadership, and community spirit, the Indiana General Assembly wishes Miss Baracaldo continued success in her future endeavors.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Ana Baracaldo and her parents; Oak Hill High School Principal, Joel Martin; and Oak Hill United School Corporation Superintendent, James W. Smith.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Turner, Friend, and McClain.

Senate Resolution 6

Senate Resolution 6, introduced by Senator Sipes:

A SENATE RESOLUTION to congratulate Ashley Heishman for the outstanding accomplishment of receiving the 2005-2006 John

Wooden Scholarship Award for student-athletes.

Whereas, Ashley was one of four high school students in the state to receive the John Wooden Scholarship on Saturday, November 26, 2005 at Conseco Fieldhouse in Indianapolis during the Wooden Classic basketball tournament; and

Whereas, She is a senior at New Albany High School where she is ranked first in her class; and

Whereas, She has been involved in cheerleading, tennis, golf and dance; is a member of the Community Foundation Youth Philanthropy Council and participates in the Back Pack Blessing at The Children's Academy of New Albany; and

Whereas, She is the only student at New Albany to ever receive the John Wooden Scholarship Award; Therefore,

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. The General Assembly congratulates Ashley Heishman for her accomplishment of receiving the 2005-2006 John Wooden Scholarship Award for student-athletes.

SECTION 2. That the Secretary of the Senate shall transmit a copy of this resolution to Ashley Heishman.

The resolution was read in full and adopted by voice vote.

Senate Concurrent Resolution 66

Senate Concurrent Resolution 66, introduced by Senator Jackman:

A CONCURRENT RESOLUTION honoring Mays Elementary School for earning the Four Star School Award from the Indiana Department of Education.

Whereas, Each year, the Indiana Department of Education honors selected schools with Indiana's highest distinction, the Four Star School Award;

Whereas, In order for a state-accredited public school to receive the Four Star School Award, the school must meet Adequate Yearly Progress as defined by the No Child Left Behind Act of 2001. They must also perform in the top twenty-five percent of all public schools in the state in the following four areas: student attendance rates, mathematics proficiency scores, English/language arts proficiency scores, and the percent of students passing both mathematics and English/language arts;

Whereas, On January 30, 2006, Superintendent of Public Instruction, Dr. Suellen Reed, announced the 2004 Four Star School Award recipients. Of the 1,870 schools in Indiana, 198 earned the award; and

Whereas, Mays Elementary, which is part of Rush County Schools, covers portions of four townships and has an enrollment of 200 students. Mays Elementary earned the 2004 Four Star School designation. The school completed the required criteria as well as the additional criteria for state-accredited public schools: Therefore,

*Be it resolved by the Senate of the General Assembly
of the State of Indiana, the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly congratulates Mays Elementary for earning the 2004 Four Star School Award distinction. The students and staff are commended for their hard work and dedication to academic achievement.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Dr. Edwin Lyskowski, Rush County Schools Superintendent, and Karen Brown, Mays Elementary Principal.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Cherry.

RESOLUTIONS ON SECOND READING

Senate Concurrent Resolution 9

Senator Riegsecker called up Senate Concurrent Resolution 9 for second reading. The resolution was read a second time by title and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Woodruff and Summers.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 65

Senate Concurrent Resolution 65, introduced by Senators Heinold and Landske:

A CONCURRENT RESOLUTION honoring Boone Grove Middle School for earning the Four Star School Award from the Indiana Department of Education.

Whereas, Each year, the Indiana Department of Education honors selected schools with Indiana's highest distinction, the Four Star School Award;

Whereas, In order for a state-accredited public school to receive the Four Star School Award, the school must meet Adequate Yearly Progress as defined by the No Child Left Behind Act of 2001. They must also perform in the top twenty-five percent of all public schools in the state in the following four areas: student attendance rates, mathematics proficiency scores, English/language arts proficiency scores, and the percent of students passing both mathematics and English/language arts;

Whereas, On January 30, 2006, Superintendent of Public Instruction, Dr. Suellen Reed, announced the 2004 Four Star School Award recipients. Of the 1,870 schools in Indiana, 198 earned the award; and

Whereas, By completing the required criteria for state-accredited public schools, Boone Grove Middle School, which is part of the Porter Township School Corporation, earned the 2004 Four Star School designation: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly congratulates Boone Grove Middle School for earning the 2004 Four Star School Award distinction. The students and staff are commended for their hard work and dedication to academic achievement.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Nicholas Brown, Porter County School Corporation Superintendent, and Larry Allen, Boone Grove Middle School Principal.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Ayres.

Senate Resolution 44

Senate Resolution 44, introduced by Senator Nugent:

A SENATE RESOLUTION to congratulate Nugent Tractor Sales on its 50th anniversary.

Whereas, Selling and servicing Ford tractors and farm equipment, Nugent Tractor Sales was founded in 1956 by Carl Nugent, father of State Senator Johnny Nugent;

Whereas, Nugent Tractor Sales was originally located in the downtown area of Lawrenceburg, but in the first two years, it quickly outgrew its Dearborn County home;

Whereas, In 1958, Nugent Tractor Sales acquired property and facilities on U.S. Highway 50 west of Lawrenceburg. The business remains there today and provides much more room for growth and prosperity;

Whereas, Nugent Tractor Sales soon added franchises, including Massey Ferguson Tractor, New Holland, and Cub Cadet Lawn and Garden Power Equipment;

Whereas, Retiring due to health concerns in 1968, Carl Nugent sold the business to his son, Johnny;

Whereas, Nugent Tractor Sales, where "Business is Good," continued to grow and prosper throughout the 1970s and 1980s. In

1990, Johnny Nugent proudly took his daughter, Suzi Nugent-Randall into the business as a partner; and

Whereas, After 50 years in business, Nugent Tractor Sales continues to prosper and consistently soars past sales records year after year. Their slogan remains "Business is Good." Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana Senate congratulates Nugent Tractor Sales on its 50th anniversary and wishes them the best in the years to come.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Johnny Nugent and Suzi Nugent-Randall.

The resolution was read in full and adopted by voice vote.

MOTIONS TO CONCUR IN HOUSE AMENDMENTS

SENATE MOTION

Madam President: I withdraw the call on the motion that the Senate do concur with the House amendments to Engrossed Senate Bill 338.

MERRITT

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

EHB 1117-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1117 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Replace the effective dates in SECTIONS 8 through 9 with "[EFFECTIVE UPON PASSAGE]".

Page 5, line 1, delete "June 30," and insert "**March 1**,".

(Reference is to EHB 1117 as reprinted March 1, 2006.)

Wolkins, Chair

Gard

Dvorak

Hume

House Conferees

Senate Conferees

Roll Call 357: yeas 50, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 106-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 106 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-2.5-5-39, AS ADDED BY P.L.195-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 39. (a) As used in this section, "cargo trailer" means a vehicle:

- (1) without motive power;
- (2) designed for carrying property;
- (3) designed for being drawn by a motor vehicle; and
- (4) having a gross vehicle weight rating of at least two thousand two hundred (2,200) pounds.

(b) As used in this section, "recreational vehicle" means a vehicle with or without motive power equipped exclusively for living quarters for persons traveling upon the highways. The term includes a travel trailer, a motor home, a truck camper with a floor and facilities enabling it to be used as a dwelling, and a fifth wheel trailer.

(c) A transaction involving a cargo trailer, a recreational vehicle, or an aircraft is exempt from the state gross retail tax if:

- (1) the purchaser is a nonresident;
- (2) upon receiving delivery of the cargo trailer, recreational vehicle, or aircraft, the person transports it within thirty (30) days to a destination outside Indiana;
- (3) the cargo trailer, recreational vehicle, or aircraft will be titled or registered for use in another state or country; and
- (4) the cargo trailer, recreational vehicle, or aircraft will not be titled or registered for use in Indiana; and
- (5) in the case of a transaction involving a cargo trailer or recreational vehicle, the cargo trailer or recreational vehicle will be titled or registered in a state or country that provides an exemption from sales, use, or similar taxes imposed on a cargo trailer or recreational vehicle that is purchased in that state or country by an Indiana resident and will be titled or registered in Indiana.

The amount of the exemption for a cargo trailer or recreational vehicle is determined in subsection (d). A transaction involving a cargo trailer or recreational vehicle that does not meet the requirements of subdivision (5) is not exempt from the state gross retail tax.

(d) The amount of the exemption for a cargo trailer or a recreational vehicle under this section is equal to the amount of:

- (1) the state gross retail tax that would be imposed on the transaction if the cargo trailer or recreational vehicle were registered in Indiana; minus
- (2) the sales, use, or similar tax that would have been imposed on the transaction under the laws of the state or country in which the purchaser affirms the cargo trailer or recreational vehicle will be registered;

The amount of the exemption under this section may not exceed the amount of the state gross retail tax that would be imposed on the transaction if the cargo trailer or recreational vehicle were registered in Indiana. A retail merchant that accepts an exemption claim for a cargo trailer or recreational vehicle under this section shall, within

sixty (60) days after the date of the transaction, have on file a copy of the purchaser's title or registration of the cargo trailer or recreational vehicle outside Indiana or pay to the state the amount of the exemption.

(e) Any state gross retail tax due after the application of the exemption provided by this section must be paid to the retail merchant.

(f) (d) A purchaser must claim an exemption under this section by submitting to the retail merchant an affidavit stating the purchaser's intent to:

- (1) transport the cargo trailer, recreational vehicle, or aircraft to a destination outside Indiana within thirty (30) days after delivery; and
- (2) title or register the cargo trailer, recreational vehicle, or aircraft for use in another state or country.

The department shall prescribe the form of the affidavit, **which must include an affirmation by the purchaser under the penalties for perjury that the information contained in the affidavit is true.** The affidavit must identify the state or country in which the cargo trailer, recreational vehicle, or aircraft will be titled or registered. ~~Within sixty (60) days after the date of the transaction, the purchaser shall provide to the retail merchant a copy of the purchaser's title or registration of the cargo trailer, recreational vehicle, or aircraft outside Indiana.~~

(g) (e) The department shall provide the information necessary to calculate the amount of **determine a purchaser's eligibility for an exemption claimed under this section to retail merchants in the business of selling cargo trailers or recreational vehicles.**

SECTION 2. [EFFECTIVE JULY 1, 2006] IC 6-2.5-5-39, as amended by this act, applies to retail transactions occurring after June 30, 2006.

(Reference is to ESB 106 as printed February 17, 2006.)

M. Young, Chair	Walorski
Broden	Fry
Senate Conferees	House Conferees

Roll Call 358: yeas 50, nays 0. Report adopted.

2:39 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 7:21 p.m., with the President of the Senate in the Chair.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolutions 53, 61, 62, 63, 65, and 66 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 67

Senate Concurrent Resolution 67, introduced by Senator Meeks:

A CONCURRENT RESOLUTION urging the Legislative Council to establish an interim study committee to study issues pertaining to public transportation and commerce.

Whereas, Every dollar invested in public transportation boosts worker output by five dollars;

Whereas, Major cities outside of Indiana have seen as much as a forty percent increase in retail and business redevelopment around public transit facilities;

Whereas, Major Indiana businesses have begun to invest in facilities to manufacture energy efficient and environmentally-friendly engines, transmissions, and other components designed for the public transportation sector;

Whereas, A favorable tax and business incentive policy has been an integral component of every public transportation development project;

Whereas, There is a need to gather economic and financial information on the optimal mix of public and private investments needed to grow Indiana's emerging public transportation equipment industry and secure the economic benefits of public transportation for Indiana: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Legislative Council is urged to establish an interim study committee to study public transportation and commerce.

SECTION 2. That the study committee, if established, shall study and make recommendations concerning public transportation and commerce.

SECTION 3. That the committee, if established, shall operate under the direction of the Legislative Council and shall issue a report when directed to do so by the Council.

SECTION 4. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to the Legislative Council.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

Senate Resolution 45

Senate Resolution 45, introduced by Senator Meeks:

A SENATE RESOLUTION to encourage the President of the United States, the Indiana United States Congressional Delegation, and the Governor of the State of Indiana to make it a priority to

advance the commitment to community integration and personal security for individuals with mental retardation or other developmental disabilities, including autism, cerebral palsy, Down syndrome, epilepsy, and other related conditions, by ensuring a stable, high quality, direct support workforce.

Whereas, There are more than 15,000 Indiana citizens with mental retardation or other developmental disabilities (hereinafter "qualifying individuals") that are receiving services and approximately 15,000 additional Indiana citizens waiting to receive these services;

Whereas, Qualifying individuals have substantial limitations on their functional capacities, including limitations in three or more of the areas of self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency, as well as the continuous need for individually planned and coordinated services;

Whereas, For the past two decades, qualifying individuals and their families have increasingly expressed their desire to live and work in their communities;

Whereas, The Supreme Court, in its Olmstead decision, affirmed the right of qualifying individuals to receive community-based services as an alternative to institutional care. Since this decision was handed down, the demand for community supports and services has grown rapidly as States continue to move more individuals from institutions into the community;

Whereas, Families and private providers that employ direct support professionals deliver the majority of supports and services for qualifying individuals in the community;

Whereas, Direct support professionals provide a wide range of supportive services on a day-to-day basis, including habilitation, health needs, personal care and hygiene, employment, transportation, recreation, housekeeping and other home management-related supports and services so that these individuals can live and work in their communities;

Whereas, Private providers and the individuals for whom they provide supports and services are in jeopardy as a result of the growing crisis in recruiting and retaining a direct support workforce;

Whereas, providers of supports and services typically draw from a labor market that competes with other entry-level jobs that involve less physically and emotionally demanding work, and higher pay and other benefits. As a result, these direct support jobs are not currently competitive in today's labor market. Annually, the national industry turnover rates for direct support workers range from 40 to 75 percent;

Whereas, This workforce shortage is the most significant barrier

to implementing the Olmstead decision and undermines the expansion of community integration as called for by President Bush's New Freedom Initiative, placing the community support infrastructure at risk; and

Whereas, The Indiana Association of Rehabilitation Facilities is committed to supporting the provision of safe and high-quality supports to qualifying individuals who benefit from community based services for the developmentally disabled through recognition of the quality of care provided by the direct support staff who deliver those services in community-based settings: Therefore,

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the Indiana Senate recognizes that building a stable, well-trained direct support workforce to provide supports and services to individuals with mental retardation and other developmental disabilities is important in advancing Indiana's commitment to community integration for those individuals and to personal security for them and their families.

SECTION 2. That the Indiana Senate seeks to encourage this by taking advantage of all resources, both federal and state, for developing and expanding career options and opportunities to meet this workforce crisis of direct support professionals in Indiana.

SECTION 3. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to President George W. Bush, every member of the Indiana United States Congressional Delegation, and Governor Mitchell E. Daniels.

The resolution was read in full and referred to the Committee on Health and Provider Services.

Senate Resolution 46

Senate Resolution 46, introduced by Senators Delph, Wyss, and Kenley:

A SENATE RESOLUTION urging the Legislative Council to assign to the Commission on State Tax and Financing Policy the topic of the eligibility of certain military benefits.

Whereas, In order to provide the best possible benefits for members of all branches of the armed forces, the Legislative Council is urged to have the Commission on State Tax and Financing Policy study this topic further: Therefore,

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the Legislative Council is urged to assign to the Commission on State Tax and Financing Policy the topic of the eligibility of certain military benefits.

SECTION 2. That the Commission on State Tax and Financing Policy should study the following topics:

- (1) the zero percent (0%) disability threshold for statutory fee remission for educational benefits; and
- (2) eligibility of the active component of the armed forces for grants from the military family relief fund.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Engrossed Senate Bill 106.

M. YOUNG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Kruse and Delph be added as coauthors of Senate Concurrent Resolution 53.

WALTZ

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Kruse be added as coauthor of Senate Concurrent Resolution 61.

WYSS

Motion prevailed.

MESSAGE FROM THE GOVERNOR

Madam President and Members of the Senate: On March 13, 2006, I signed the following enrolled acts into law: SEA 374, 308, 205, 201, 191, 173, 169, 154, 151, 146, 69, 39, 33, and 36.

MITCHELL E. DANIELS, JR.
Governor

MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1017.

ROBERT D. GARTON
President Pro Tempore

MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1024.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1089.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1108.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1150.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1238.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1280.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed House Enrolled Act 1300.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13,

2006, signed Senate Enrolled Act 145.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed Senate Enrolled Act 157.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed Senate Enrolled Act 161.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed Senate Enrolled Act 234.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed Senate Enrolled Act 247.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed Senate Enrolled Act 269.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed Senate Enrolled Act 297.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed Senate Enrolled Act 300.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March, 2006, signed Senate Enrolled Act 382.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed Senate Enrolled Act 353.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed Senate Enrolled Act 369.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed Senate Enrolled Act 22.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13, 2006, signed Senate Enrolled Act 42.

ROBERT D. GARTON
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on March 13,

2006, signed Senate Enrolled Act 100.

ROBERT D. GARTON
President Pro Tempore

SENATE MOTION

Madam President: I move that Conference Committee Report 1010-1 to Engrossed House Bill 1010, filed March 9, 2006, be withdrawn from further consideration by the Senate.

BRAY

Motion prevailed.

**PRESIDENT PRO TEMPORE'S REPORT
OF
CONFEREE CHANGES**

Pursuant to Rule 81(c), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has removed the following senator(s) as conferee(s) or advisor(s) on Engrossed House Bill 1315:

Landske
Sipes

GARTON
Date: 3/13/2006
Time: 7:24 p.m.

**PRESIDENT PRO TEMPORE'S REPORT
OF
CONFEREE CHANGES**

Pursuant to Rule 81(c), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has removed the following senator(s) as conferee(s) or advisor(s) on Engrossed House Bill 1080:

Hershman
Hume
Advisors: Wyss
Rogers

GARTON
Date: 3/13/2006
Time: 7:23 p.m.

CONFERENCE COMMITTEE REPORTS

**CONFERENCE COMMITTEE REPORT
ESB 266-1**

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 266 respectfully reports that said two committees have conferred and agreed as follows to wit: that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-10-8-7.7, AS AMENDED BY P.L.196-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.7. (a) As used in this section, "covered individual" means an individual who is covered under a health care plan.

(b) As used in this section, "health care plan" means:

- (1) a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or
- (2) a contract entered into under section 7(c) of this chapter to provide health services through a prepaid health care delivery plan.

(c) As used in this section, "health care provider" means a:

- (1) physician licensed under IC 25-22.5; or
- (2) hospital licensed under IC 16-21;

that provides health care services for surgical treatment of morbid obesity.

(d) As used in this section, "morbid obesity" means:

- (1) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or
- (2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index is equal to weight in kilograms divided by height in meters squared.

(e) Except as provided in subsection (f), the state shall provide coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

- (1) that has persisted for at least five (5) years; and
- (2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least ~~eighteen (18)~~ **six (6)** consecutive months.

(f) The state may not provide coverage for surgical treatment of morbid obesity for a covered individual who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:

- (1) save the life of the covered individual; or
- (2) restore the covered individual's ability to maintain a major life activity (as defined in IC 4-23-29-6);

and each physician documents in the covered individual's medical record the reason for the physician's determination.

SECTION 2. IC 16-40-3-2, AS ADDED BY P.L.196-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) **As used in this section, "major complication" means a complication from surgical treatment for morbid obesity that:**

- (1) requires an extended hospitalization, additional surgical treatment, or invasive drug therapy within thirty (30) days of the original surgical treatment; or**

(2) results in a permanent disability.

(b) As used in this section, "serious side effect" means a nutritional deficiency that requires hospitalization or invasive therapy.

(c) A physician who is licensed under IC 25-22.5 and who performs a surgical treatment for the treatment of morbid obesity shall **do the following:**

(1) Before performing surgery, discuss the following with the patient:

- (A) The requirements to qualify for the surgery.**
- (B) The details of the surgery.**
- (C) The possible complications from the surgery.**
- (D) The side effects from the surgery, including lifestyle changes and dietary protocols.**

~~(1)~~ **(2) Monitor the patient for five (5) years following the patient's surgery, unless the physician is unable to locate the patient after making reasonable efforts. and**

~~(2)~~ **(3) Report before June 30 and before December 31 of each year:**

(A) to; and

(B) in a manner prescribed by;

the state department any death, ~~or~~ **serious side effect, or major complication of the patient.**

~~(b) (d) The A report required in subsection (a) by subsection (c)(3) must include the following information:~~

- (1) The gender of the patient.
- (2) The name of the physician who performed the surgery.
- (3) The location where the surgery was performed.
- (4) Information concerning the death, **serious side effect, or major complication** and the circumstances in which the death, **serious side effect, or major complication** occurred.
- (5) The comorbidities, body mass index, and waist circumference of the patient:**
 - (A) at the time of the surgical treatment; and**
 - (B) thirty (30) days, ninety (90) days, and one (1) year after surgical treatment.**
- (6) Whether the patient has had previous abdominal surgery.**

SECTION 3. IC 16-40-3-3, AS ADDED BY P.L.196-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The state department shall collect and maintain the information reported to the state department under section 2 of this chapter.

(b) The reports made under ~~section 2(a)(2)~~ **section 2(c)(3)** of this chapter are ~~public records and are confidential. However, the state department may compile statistical reports from information contained in reports made under section 2(c)(3) of this chapter. Any statistical report is subject to public inspection. However, the state department may not release any information contained in the reports that the state department determines may reveal the patient's identity.~~

SECTION 4. IC 27-8-14.1-4, AS AMENDED BY P.L.196-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Except as provided in subsection (b), an insurer that issues an accident and sickness

insurance policy shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

- (1) that has persisted for at least five (5) years; and
- (2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least ~~eighteen (18)~~ **six (6)** consecutive months.

(b) An insurer that issues an accident and sickness insurance policy may not provide coverage for a surgical treatment of morbid obesity for an insured who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:

- (1) save the life of the insured; or
- (2) restore the insured's ability to maintain a major life activity (as defined in IC 4-23-29-6);

and each physician documents in the insured's medical record the reason for the physician's determination.

SECTION 5. IC 27-13-7-14.5, AS AMENDED BY P.L.196-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.5. (a) As used in this section, "health care provider" means a:

- (1) physician licensed under IC 25-22.5; or
- (2) hospital licensed under IC 16-21;

that provides health care services for surgical treatment of morbid obesity.

(b) As used in this section, "morbid obesity" means:

- (1) a body mass index of at least thirty-five (35) kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or
- (2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index equals weight in kilograms divided by height in meters squared.

(c) Except as provided in subsection (d), a health maintenance organization that provides coverage for basic health care services under a group contract shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

- (1) that has persisted for at least five (5) years; and
- (2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least ~~eighteen (18)~~ **six (6)** consecutive months.

(d) A health maintenance organization that provides coverage for basic health care services may not provide coverage for surgical treatment of morbid obesity for an enrollee who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:

- (1) save the life of the enrollee; or
- (2) restore the enrollee's ability to maintain a major life activity (as defined in IC 4-23-29-6);

and each physician documents in the enrollee's medical record the reason for the physician's determination

(Reference is to ESB 266 as reprinted March 1, 2006.)

Miller, Chair

Sipes

Senate Conferees

Lehe

C. Brown

House Conferees

Roll Call 359: yeas 50, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 284-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 284 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 2, delete lines 4 through 23.

(Reference is to ESB 284 as printed February 22, 2006.)

Wyss, Chair

Broden

Senate Conferees

T. Brown

C. Brown

House Conferees

Roll Call 360: yeas 50, nays 0. Report adopted.

COMMITTEE REPORT

Pursuant to Senate Rule 83(j), your Committee on Rules and Legislative Procedure to which was referred Conference Committee Reports filed on Engrossed Senate Bills 12, 77, 112, 168, 202, 321, 340, and 355 and Engrossed House Bill 1353 has had the same under consideration and begs leave to report back to the Senate with the recommendation that said Conference Committee Reports are eligible for consideration.

GARTON, Chair

Report adopted.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 305-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 305 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-13-2-170.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 170.7. "Special purpose bus" has the meaning set forth in IC 20-27-2-10.**

SECTION 2. IC 9-21-5-14, AS ADDED BY P.L.1-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) A person may not operate a school bus **or a special purpose bus** at a speed greater than:

(1) fifty-five (55) miles per hour on a federal or state highway;
or

(2) forty (40) miles per hour on a county or township highway.

(b) If the posted speed limit is lower than the absolute limits set in this section or if the absolute limits do not apply, the maximum lawful speed of a bus is the posted speed limit.

SECTION 3. IC 9-21-12-11, AS AMENDED BY P.L.231-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) A person who violates section 5, 6, or 7 of this chapter commits a Class C infraction.

(b) A person who knowingly or intentionally violates section 12, 13, 14, 15, 16, or 17 of this chapter commits a Class C misdemeanor.

(c) A person described in section 18(b), 18(c), or 18(d) of this chapter commits a Class B infraction.

SECTION 4. IC 9-21-12-17, AS ADDED BY P.L.1-2005, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. (a) Except as provided in subsection (b), before crossing any railroad track at grade, the driver of a school bus **or special purpose bus** carrying a passenger shall stop the bus within fifty (50) feet but not less than fifteen (15) feet from the nearest rail. While the bus is stopped, the driver shall:

(1) listen through an open door;

(2) look in both directions along the track for an approaching train; and

(3) look for signals indicating the approach of a train.

The driver may not proceed until it is safe to proceed. When it is safe to proceed, the driver shall select a gear that will allow the driver to cross the tracks without changing gears. The driver may not shift gears while crossing the tracks.

(b) The driver is not required to stop when a police officer is directing the flow of traffic across railroad tracks.

(c) Upon conviction of a violation of this section, a driver shall have the driver's operator's license suspended for a period of not less than sixty (60) days in addition to the penalties provided by section 11 of this chapter.

SECTION 5. IC 9-21-12-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. **(a) Whenever a school bus or special purpose bus is at a place of departure for transporting passengers, the school bus or special purpose bus emergency escape exits, doors, emergency exit windows, roof exits, and service doors must be free of any obstruction that:**

(1) inhibits or obstructs an exit; or

(2) renders the means of exit hazardous.

(b) A driver who knowingly operates a school bus or special purpose bus in violation of subsection (a) is subject to section 11(c) of this chapter.

(c) A person who knowingly directs a driver to operate a school bus or special purpose bus in violation of subsection (a) is subject to section 11(c) of this chapter.

(d) A school corporation or an entity that employs:

(1) a driver who knowingly operates a school bus or special purpose bus in violation of subsection (a); or

(2) a person who knowingly directs a driver to operate a school bus or special purpose bus in violation of subsection (a);

is subject to section 11(c) of this chapter.

SECTION 6. IC 20-27-3-4, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The committee has the following powers:

(1) The committee may adopt rules under IC 4-22-2 establishing standards for the construction of school buses **and special purpose buses**, including minimum standards for the construction of school buses **and special purpose buses** necessary to be issued a:

(A) valid certificate of inspection decal; and

(B) temporary certificate of inspection decal described in IC 20-27-7-10.

(2) The committee may adopt rules under IC 4-22-2 establishing standards for the equipment of school buses **and special purpose buses**, including minimum standards for the equipment of school buses **and special purpose buses** necessary to be issued a:

(A) valid certificate of inspection decal; and

(B) temporary certificate of inspection decal described in IC 20-27-7-10.

(3) The committee may adopt rules under IC 4-22-2 specifying the minimum standards that must be met to avoid the issuance of an out-of-service certificate of inspection decal.

(4) The committee may provide for the inspection of all school buses **and special purpose buses**, new or old, that are offered for sale, lease, or contract.

(5) The committee may provide for the annual inspection of all school buses **and special purpose buses** and the issuance of certificate of inspection decals.

(6) The committee may maintain an approved list of school buses **and special purpose buses** that have passed inspection tests under subdivision (4) or (5).

(7) The committee may, subject to approval by the state board of accounts, prescribe standard forms for school bus **driver** contracts.

(8) The committee may hear appeals brought under IC 20-27-7-15.

(b) The committee shall adopt rules under IC 4-22-2 to set performance standards and measurements for determining the physical ability necessary for an individual to be a school bus driver.

(c) The certificate of inspection decals shall be issued to correspond with each school year. Each certificate of inspection decal expires on September 30 following the school year in which the certificate of inspection decal is effective. However, for buses that are described in IC 20-27-7-7, the certificate of inspection decal expires on a date that is not later than seven (7) months after the date of the first inspection for the particular school year.

SECTION 7. IC 20-27-3-7, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) A school bus **or special**

purpose bus sold or delivered in Indiana must meet the standards of construction and equipment set forth in the rules of the committee.

(b) A school bus may not be originally licensed in Indiana until the school bus has been inspected by the state police department and found to comply with these standards.

(Reference is to ESB 305 as reprinted March 1, 2006.)

M. Young, Chair

Hinkle

Rogers

Klinker

Senate Conferees

House Conferees

Roll Call 361: yeas 50, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 340-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 340 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-15-1.8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: Sec. 7. (a) The department shall do the following:

- (1) Develop personnel policies, methods, procedures, and standards for all state agencies.
- (2) Formulate, establish, and administer position classification plans and salary and wage schedules, all subject to final approval by the governor.
- (3) Allocate positions in the state agencies to their proper classifications.
- (4) Approve employees for transfer, demotion, promotion, suspension, layoff, and dismissal.
- (5) Rate employees' service.
- (6) Arrange with state agency heads for employee training.
- (7) Investigate the need for positions in the state agencies.
- (8) Promulgate and enforce personnel rules.
- (9) Make and administer examinations for employment and for promotions.
- (10) Maintain personnel records and a roster of the personnel of all state agencies.
- (11) Render personnel services to the political subdivisions of the state.
- (12) Investigate the operation of personnel policies in all state agencies.
- (13) Assist state agencies in the improvement of their personnel procedures.
- (14) Conduct a vigorous program of recruitment of qualified and able persons for the state agencies.
- (15) Advise the governor and the general assembly of legislation needed to improve the personnel system of this state.
- (16) Furnish any information and counsel requested by the

governor or the general assembly.

(17) Establish and administer an employee training and career advancement program.

(18) Administer the state personnel law, IC 4-15-2.

(19) Institute an employee awards system designed to encourage all state employees to submit suggestions that will reduce the costs or improve the quality of state agencies.

(20) Survey the administrative organization and procedures, including personnel procedures, of all state agencies, and submit to the governor measures to secure greater efficiency and economy, to minimize the duplication of activities, and to effect better organization and procedures among state agencies.

(21) Establish, implement, and maintain the state aggregate prescription drug purchasing program established under IC 16-47-1, as approved by the budget agency.

(b) Salary and wage schedules established by the department under subsection (a) must provide:

(1) for the establishment of overtime policies, which must include: ~~the following~~

~~(1)~~ (A) definition of overtime;

~~(2)~~ (B) determination of employees or classes eligible for overtime pay;

~~(3)~~ (C) procedures for authorization;

~~(4)~~ (D) methods of computation;

~~(5)~~ (E) procedures for payment; **and**

~~(6)~~ (F) a provision that there shall be no mandatory adjustments to an employee's established work schedule in order to avoid the payment of overtime; **and**

(2) that an appointing authority is not required to reduce the salary of an employee who is demoted, unless the appointing authority determines that the salary reduction is warranted for disciplinary reasons or other good cause.

(c) The state personnel advisory board shall advise the director and cooperate in the improvement of all the personnel policies of the state.

(d) The department shall establish programs of temporary appointment for employees of state agencies. A program established under this subsection must contain at least the following provisions:

(1) A temporary appointment may not exceed one hundred eighty (180) working days in any twelve (12) month period.

(2) The department may allow exceptions to the prohibition in subdivision (1) with the approval of the state budget agency.

(3) A temporary appointment in an agency covered by IC 4-15-2 is governed by the procedures of that chapter.

(4) A temporary appointment does not constitute creditable service for purposes of the public employees' retirement program under IC 5-10.2 and IC 5-10.3. However, an employee who served in an intermittent form of temporary employment after June 30, 1986, and before July 1, 2003, shall receive creditable service for the period of temporary employment.

SECTION 2. IC 5-10-8-7, AS AMENDED BY HEA 1134-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) The state, excluding state educational institutions (as defined by IC 20-12-0.5-1), may not

purchase or maintain a policy of group insurance, except:

- (1) life insurance for the state's employees;
- (2) long term care insurance under a long term care insurance policy (as defined in IC 27-8-12-5), for the state's employees; ~~or~~
- (3) an accident and sickness insurance policy (as defined in IC 27-8-5.6-1) that covers individuals to whom coverage is provided by a local unit under section 6.6 of this chapter; ~~or~~
- (4) an insurance policy that provides coverage that supplements coverage provided under a United States military health care plan.**

(b) With the consent of the governor, the state personnel department may establish self-insurance programs to provide group insurance other than life or long term care insurance for state employees and retired state employees. The state personnel department may contract with a private agency, business firm, limited liability company, or corporation for administrative services. A commission may not be paid for the placement of the contract. The department may require, as part of a contract for administrative services, that the provider of the administrative services offer to an employee terminating state employment the option to purchase, without evidence of insurability, an individual policy of insurance.

(c) Notwithstanding subsection (a), with the consent of the governor, the state personnel department may contract for health services for state employees and individuals to whom coverage is provided by a local unit under section 6.6 of this chapter through one (1) or more prepaid health care delivery plans.

(d) The state personnel department shall adopt rules under IC 4-22-2 to establish long term and short term disability plans for state employees (except employees who hold elected offices (as defined by IC 3-5-2-17)). The plans adopted under this subsection may include any provisions the department considers necessary and proper and must:

- (1) require participation in the plan by employees with six (6) months of continuous, full-time service;
- (2) require an employee to make a contribution to the plan in the form of a payroll deduction;
- (3) require that an employee's benefits under the short term disability plan be subject to a thirty (30) day elimination period and that benefits under the long term plan be subject to a six (6) month elimination period;
- (4) prohibit the termination of an employee who is eligible for benefits under the plan;
- (5) provide, after a seven (7) day elimination period, eighty percent (80%) of base biweekly wages for an employee disabled by injuries resulting from tortious acts, as distinguished from passive negligence, that occur within the employee's scope of state employment;
- (6) provide that an employee's benefits under the plan may be reduced, dollar for dollar, if the employee derives income from:
 - (A) Social Security;
 - (B) the public employees' retirement fund;
 - (C) the Indiana state teachers' retirement fund;
 - (D) pension disability;
 - (E) worker's compensation;

- (F) benefits provided from another employer's group plan; or
- (G) remuneration for employment entered into after the disability was incurred.

(The department of state revenue and the department of workforce development shall cooperate with the state personnel department to confirm that an employee has disclosed complete and accurate information necessary to administer subdivision (6).)

(7) provide that an employee will not receive benefits under the plan for a disability resulting from causes specified in the rules; and

(8) provide that, if an employee refuses to:

- (A) accept work assignments appropriate to the employee's medical condition;
- (B) submit information necessary for claim administration; or
- (C) submit to examinations by designated physicians;

the employee forfeits benefits under the plan.

(e) This section does not affect insurance for retirees under IC 5-10.3 or IC 5-10.4.

(f) The state may pay part of the cost of self-insurance or prepaid health care delivery plans for its employees.

(g) A state agency may not provide any insurance benefits to its employees that are not generally available to other state employees, unless specifically authorized by law.

(h) The state may pay a part of the cost of group medical and life coverage for its employees.

SECTION 3. IC 5-10.3-6-8.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: **Sec. 8.9.**

(a) This section applies when certain employees of the state in particular departmental, occupational, or other definable classifications are terminated from employment with the state as a result of:

- (1) a lease or other transfer of state property to a nongovernmental entity; or**
- (2) a contractual arrangement with a nongovernmental entity to perform certain state functions.**

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).

(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (k), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

- (1) is at least fifty (50) years of age; and**
- (2) has at least fifteen (15) years of creditable service.**

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

- (1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;**
- (2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or**

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The governor has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state complies with subsections (g) and (i).

(g) A member who:

(1) is an employee of the state described in subsection (a) with at least twenty-four (24) months of creditable service as of the date of the notice under subsection (f); and

(2) is listed in the notice under subsection (f);

is vested in the pension portion of the member's retirement benefit. The state must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state must be made in a lump sum or in a series of payments determined by the board. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(h) A member who is covered by subsection (g) and who is at least sixty-five (65) years of age as of the date of the notice under subsection (f) may elect to retire under IC 5-10.2-4-1 even if the member has less than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(i) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

(1) The state shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 and payable from the sources described in subsection (j) sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(j) The amounts that the state is required to contribute to the

fund under subsection (i) must come from the following sources:

(1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (i).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (i), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (i) in the next biennial state budget.

(k) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the board of trustees of the fund.

(b) As used in this SECTION, "fund" refers to the public employees' retirement fund established under IC 5-10.3-2-1.

(c) This SECTION applies to an individual who:

(1) was a state employee who, after December 30, 2005, was terminated from employment with the state, as described in IC 5-10.3-6-8.9(a), as added by this act;

(2) was a member of the fund;

(3) had not attained vested status (as defined in IC 5-10.2-1-8) in the fund; and

(4) after December 30, 2005, and before the effective date of this SECTION, received a lump sum distribution from the fund under IC 5-10.2-3-6.

(d) An individual described in subsection (c) who, on the date the individual terminated employment with the state, had earned at least twenty-four (24) months of creditable service in the fund may elect to become vested in the fund under IC 5-10.3-6-8.9(g), as added by this act, by filing with the fund a written notice on a form prescribed by the board.

(e) For the election described in subsection (d) to be effective, the individual must repay to the fund, in the manner and with interest at a rate determined by the board, the lump sum distribution received under IC 5-10.2-3-6.

(f) This SECTION expires January 1, 2007.

SECTION 5. An emergency is declared for this act.

(Reference is to ESB 340 as printed February 24, 2006.)

Wyss, Chair

Woodruff

Rogers

Welch

Senate Conferees

House Conferees

Roll Call 362: yeas 50, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 355-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 355 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. "General assessment provisions of this article" means the law contained in:

(1) chapters 3, 4, 5, 9, 11, 13, 14, 15, 16, 28, 31, and 35 of this article;

(2) sections 4, 6, 7, 8, 11, 12, and 13 of chapter 30 of this article;

(3) sections 1 through 7, inclusive, of chapter 36 of this article; and

(4) sections 2, 3, 7, 8, 9, **10.7**, 11, 12, and 13 of chapter 37 of this article.

SECTION 2. IC 6-1.1-18.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Any civil taxing unit that determines that it cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by section 3 of this chapter may:

(1) before September 20 **of the calendar year immediately preceding the ensuing calendar year**; or

(2) in the case of a request described in section 16 of this chapter, before:

(A) December 31 of the calendar year immediately preceding the ensuing calendar year; or

(B) **with the approval of the county fiscal body of the county in which the civil taxing unit is located, March 1 of the ensuing calendar year**;

appeal to the department of local government finance for relief from those levy limitations. In the appeal the civil taxing unit must state that it will be unable to carry out the governmental functions committed to it by law unless it is given the authority that it is petitioning for. The civil taxing unit must support these allegations by reasonably detailed statements of fact.

(b) The department of local government finance shall promptly deliver to the local government tax control board every appeal petition it receives under subsection (a) and any materials it receives relevant to those appeals. Upon receipt of an appeal petition, the local government tax control board shall immediately proceed to the examination and consideration of the merits of the civil taxing unit's appeal.

(c) In considering an appeal, the local government tax control board has the power to conduct hearings, require any officer or member of the appealing civil taxing unit to appear before it, or require any officer or member of the appealing civil taxing unit to provide the board with any relevant records or books.

(d) If an officer or member:

(1) fails to appear at a hearing of the local government tax control board after having been given written notice from the local government tax control board requiring **his that person's** attendance; or

(2) fails to produce for the local government tax control board's use the books and records that the local government tax control board by written notice required the officer or member to produce;

then the local government tax control board may file an affidavit in the circuit court in the jurisdiction in which the officer or member may be found setting forth the facts of the failure.

(e) Upon the filing of an affidavit under subsection (d), the circuit court shall promptly issue a summons, and the sheriff of the county within which the circuit court is sitting shall serve the summons. The summons must command the officer or member to appear before the local government tax control board, to provide information to the local government tax control board, or to produce books and records for the local government tax control board's use, as the case may be. Disobedience of the summons constitutes, and is punishable as, a contempt of the circuit court that issued the summons.

(f) All expenses incident to the filing of an affidavit under subsection (d) and the issuance and service of a summons shall be charged to the officer or member against whom the summons is issued, unless the circuit court finds that the officer or member was acting in good faith and with reasonable cause. If the circuit court finds that the officer or member was acting in good faith and with reasonable cause or if an affidavit is filed and no summons is issued, the expenses shall be charged against the county in which the affidavit was filed and shall be allowed by the proper fiscal officers of that county.

(g) The fiscal officer of a civil taxing unit that appeals under section 16 of this chapter for relief from levy limitations shall immediately file a copy of the appeal petition with the county auditor and the county treasurer of the county in which the unit is located.

SECTION 3. IC 6-1.1-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A county board of tax adjustment may not approve or recommend the approval of an excessive tax levy.

(b) If a school corporation adopts or advertises an excessive tax levy, the county board of tax adjustment which reviews the school corporation's budget, tax levy, and tax rate shall reduce the excessive tax levy to the maximum normal tax levy.

(c) If a county board of tax adjustment approves, or recommends the approval of, an excessive tax levy for a school corporation, the auditor of the county for which the county board is acting shall reduce the excessive tax levy to the maximum normal tax levy. Such a reduction shall be set out in the notice required to be published by the

auditor under IC 6-1.1-17-12, and an appeal shall be permitted therefrom as provided under IC 6-1.1-17 as modified by this chapter.

(d) Appeals from any action of a county board of tax adjustment or county auditor in respect of a school corporation's budget, tax levy, or tax rate may be taken as provided for by IC 6-1.1-17. Notwithstanding IC 6-1.1-17, a school corporation may appeal to the department of local government finance for emergency financial relief for the ensuing calendar year at any time before:

(1) September 20 of the calendar year immediately preceding the ensuing calendar year; or

(2) in the case of a request described in section 4.7(a) of this chapter:

(A) December 31 of the calendar year immediately preceding the ensuing calendar year; or

(B) with the approval of the county fiscal body of the county in which the school corporation is located, March 1 of the ensuing calendar year.

(e) In the appeal petition in which a school corporation seeks emergency financial relief, the appellant school corporation shall allege that, unless it is given the emergency financial relief for which it petitions, it will be unable to carry out, in the ensuing calendar year, the public educational duty committed to it by law, and it shall support that allegation by reasonably detailed statements of fact.

(f) When an appeal petition in which a school corporation petitions for emergency financial relief is filed with the department of local government finance, the department shall include, in the notice of the hearing in respect of the petition that it is required to give under IC 6-1.1-17-16, a statement to the effect that the appellant school corporation is seeking emergency financial relief for the ensuing calendar year. A subsequent action taken by the department of local government finance in respect of such an appeal petition is not invalid, however, or otherwise affected, if the department fails to include such a statement in the hearing notice.

(g) The fiscal officer of a school corporation that appeals under section 4.7(a) of this chapter for relief from levy limitations under this chapter shall immediately file a copy of the appeal petition with the county auditor and the county treasurer of the county in which the unit is located.

SECTION 4. IC 6-1.1-21-2, AS AMENDED BY P.L.1-2005, SECTION 92, AND AS AMENDED BY P.L.246-2005, SECTION 64, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5 is to be filed ~~on or before~~ **March 1** of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:

(i) IC 6-1.1-18.5-13(4) and IC 6-1.1-18.5-13(5) filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 (*repealed*) were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

(i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of

IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(G) the amount of property taxes imposed in the county for the stated assessment year under:

- (i) IC 21-2-15 for a capital projects fund; plus
- (ii) IC 6-1.1-19-10 for a racial balance fund; plus
- (iii) ~~IC 20-14-13~~ IC 36-12-12 for a library capital projects fund; plus
- (iv) ~~IC 20-5-17.5-3~~ IC 36-10-13-7 for an art association fund; plus
- (v) IC 21-2-17 for a special education preschool fund; plus
- (vi) IC 21-2-11.6 for a referendum tax levy fund; plus
- (vii) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus
- (viii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5 or any other law; minus

(I) for each township in the county, the lesser of:

- (i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE, whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(4) filed after December 31, 1982; or
- (ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus

(J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus

(K) for each county, the sum of:

- (i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b); and

(ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) for property taxes payable in each year after 1995; plus

(2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus

(3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus

(4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus

(5) the difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus

(B) the amount the civil taxing units' levies were increased because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare ~~on or before March 1~~ of each year under IC 6-1.1-22-3.

(j) "Eligible property tax replacement amount" is, *except as otherwise provided by law*, equal to the sum of the following:

(1) Sixty percent (60%) of the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year.

(2) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on real property for a stated assessment year.

(3) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on tangible personal property, excluding business personal property, for an assessment year.

(k) "Business personal property" means tangible personal property (other than real property) that is being:

- (1) held for sale in the ordinary course of a trade or business; or
- (2) held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means, *except as otherwise provided by law*, the sum of the following:

(1) Sixty percent (60%) of a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund for a stated assessment year.

(2) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on real property.

(3) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on tangible personal property other than business personal property.

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund.

(o) *"Board" refers to the property tax replacement fund board established under section 10 of this chapter.*

SECTION 5. IC 6-1.1-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) **Except as provided in subsection (b),** the auditor of each county shall, before March 15 of each year, prepare a roll of property taxes payable in that year for the county. This roll shall be known as the "tax duplicate" and shall show:

- (1) the value of all the assessed property of the county;
- (2) the person liable for the taxes on the assessed property; and
- (3) any other information that the state board of accounts, with the advice and approval of the department of local government finance, may prescribe.

(b) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) before the county auditor completes preparation of the tax duplicate under subsection (a), the county auditor shall complete preparation of the tax duplicate when the appeal is resolved by the department of local government finance.

(c) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) after the county auditor completes preparation of the tax duplicate under subsection (a), the county auditor shall prepare a revised tax duplicate when the appeal is resolved by the department of local government finance that reflects the action of the department.

~~(b)~~ **(d)** The county auditor shall comply with the instructions issued by the state board of accounts for the preparation, preservation, alteration, and maintenance of the tax duplicate. The county auditor shall deliver a copy of the tax duplicate prepared under subsection (a) to the county treasurer ~~before March 1 of each year; when preparation of the tax duplicate is completed.~~

SECTION 6. IC 6-1.1-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **Except as provided in subsections (b) and (c),** on or before March 15 of each year, the county auditor shall prepare and deliver to the auditor of state and the county treasurer a certified copy of an abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in that year in each taxing district of the county. The county auditor shall prepare the abstract in such a manner that the information concerning property tax deductions reflects the total

amount of each type of deduction. The abstract shall also contain a statement of the taxes and penalties unpaid in each taxing unit at the time of the last settlement between the county auditor and county treasurer and the status of these delinquencies. The county auditor shall prepare the abstract on the form prescribed by the state board of accounts. The auditor of state, county auditor, and county treasurer shall each keep a copy of the abstract ~~in his office~~ as a public record.

(b) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) before the county auditor prepares and delivers the certified copy of the abstract under subsection (a), the county auditor shall prepare and deliver the certified copy of the abstract when the appeal is resolved by the department of local government finance.

(c) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) after the county auditor prepares and delivers the certified copy of the abstract under subsection (a), the county auditor shall prepare and deliver a certified copy of a revised abstract when the appeal is resolved by the department of local government finance that reflects the action of the department.

SECTION 7. IC 6-1.1-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in ~~IC 6-1.1-7-7; section 9.5 of this chapter; and subsections (b) and (c)~~ the property taxes assessed for a year under this article are due in two (2) equal installments on May 10 and November 10 of the following year.

(b) Subsection (a) does not apply if any of the following apply to the property taxes assessed for the year under this article:

- (1) Subsection (c).
- (2) Subsection (d).
- (3) IC 6-1.1-7-7.
- (4) Section 9.5 of this chapter.

~~(b)~~ **(c)** A county council may adopt an ordinance to require a person to pay the person's property tax liability in one (1) installment, if the tax liability for a particular year is less than twenty-five dollars (\$25). If the county council has adopted such an ordinance, then whenever a tax statement mailed under section 8 of this chapter shows that the person's property tax liability for a year is less than twenty-five dollars (\$25) for the property covered by that statement, the tax liability for that year is due in one (1) installment on May 10 of that year.

(d) If the county treasurer receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) before the county treasurer mails or transmits statements under section 8(a) of this chapter, the county auditor may:

- (1) mail or transmit the statements without regard to the pendency of the appeal and, if the resolution of the appeal by the department of local government finance results in changes in levies, mail or transmit reconciling statements under subsection (e); or
- (2) delay the mailing or transmission of statements under section 8(a) of this chapter so that:

(A) the due date of the first installment that would otherwise be due under subsection (a) is delayed by not more than sixty (60) days; and

(B) all statements reflect any changes in levies that result from the resolution of the appeal by the department of local government finance.

(e) A reconciling statement under subsection (d)(1) must indicate:

- (1) the total amount due for the year;**
- (2) the total amount of the installments paid that did not reflect the resolution of the appeal under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) by the department of local government finance;**
- (3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount that is payable by the taxpayer:**
 - (A) as a final reconciliation of all amounts due for the year; and**
 - (B) not later than:**
 - (i) November 10; or**
 - (ii) the date or dates established under section 9.5 of this chapter; and**
- (4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.**

~~(f)~~ **(f)** If property taxes are not paid on or before the due date, the penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent taxes.

~~(d)~~ **(g)** Notwithstanding any other law, a property tax liability of less than five dollars (\$5) is increased to five dollars (\$5). The difference between the actual liability and the five dollar (\$5) amount that appears on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.

SECTION 8. IC 6-1.1-22-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.5. (a) This section applies only to property taxes first due and payable in a year that begins after December 31, 2003:

- (1) with respect to a homestead (as defined in IC 6-1.1-20.9-1); and
- (2) that are not payable in one (1) installment under ~~section 9(b)~~ **section 9(c)** of this chapter.

(b) At any time before the mailing or transmission of tax statements for a year under section 8 of this chapter, a county may petition the department of local government finance to establish a schedule of installments for the payment of property taxes with respect to:

- (1) real property that are based on the assessment of the property in the immediately preceding year; or
- (2) a mobile home or manufactured home that is not assessed as real property that are based on the assessment of the property in the current year.

The county fiscal body (as defined in IC 36-1-2-6) ~~the county auditor, and the county treasurer~~ must approve a petition under this subsection.

(c) The department of local government finance:

- (1) may not establish a date for:
 - (A) an installment payment that is earlier than May 10 of the year in which the tax statement is mailed or transmitted;

(B) the first installment payment that is later than November 10 of the year in which the tax statement is mailed or transmitted; or

(C) the last installment payment that is later than May 10 of the year immediately following the year in which the tax statement is mailed or transmitted; and

(2) shall:

- (A) prescribe the form of the petition under subsection (b);
- (B) determine the information required on the form; and
- (C) notify the county fiscal body, the county auditor, and the county treasurer of the department's determination on the petition not later than twenty (20) days after receiving the petition.

(d) Revenue from property taxes paid under this section in the year immediately following the year in which the tax statement is mailed or transmitted under section 8 of this chapter:

- (1) is not considered in the determination of a levy excess under IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7 for the year in which the property taxes are paid; and

(2) may be:

- (A) used to repay temporary loans entered into by a political subdivision for; and
- (B) expended for any other reason by a political subdivision in the year the revenue is received under an appropriation from;

the year in which the tax statement is mailed or transmitted under section 8 of this chapter.

SECTION 9. IC 6-1.1-22.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) **Except as provided in subsection (c),** with respect to property taxes payable under this article on assessments determined for the 2003 assessment date or the assessment date in any later year, the county treasurer may, except as provided by section 7 of this chapter, use a provisional statement under this chapter if the county auditor fails to deliver the abstract for that assessment date to the county treasurer under IC 6-1.1-22-5 before March 16 of the year following the assessment date.

(b) The county treasurer shall give notice of the provisional statement, including disclosure of the method that is to be used in determining the tax liability to be indicated on the provisional statement, by publication one (1) time:

- (1) in the form prescribed by the department of local government finance; and
- (2) in the manner described in IC 6-1.1-22-4(b).

The notice may be combined with the notice required under section 10 of this chapter.

(c) Subsection (a) does not apply if the county auditor fails to deliver the abstract as provided in IC 6-1.1-22-5(b).

SECTION 10. IC 6-1.1-37-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies when:

- (1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;

(2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or ~~(a)(2)~~ **IC 6-1.1-15-10(a)(2)** while a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding; or

(3) the collection of certain ad valorem property taxes has been stayed under IC 4-21.5-5-9, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of ten percent (10%) per year from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is ultimately required to pay in excess of the amount that the taxpayer is required to pay under IC 6-1.1-15-10(a)(1) while a petition for review or a judicial proceeding has been pending at the overpayment rate established under Section 6621(c)(1) of the Internal Revenue Code in effect on the original due date or dates for those taxes from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(d) With respect to an action or determination described in subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:

(1) the next May 10; or

(2) the next November 10;

whichever occurs first.

(e) A taxpayer shall, to the extent that the penalty is not waived under section 10.5 **or 10.7** of this chapter, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for payment prescribed in subsection (d) if:

(1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and

(2) the taxpayer either:

(A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or

(B) voluntarily signed and filed an assessment return for the taxes.

(f) If subsection (e) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, to the extent that the penalty is not waived under section 10.5 **or 10.7** of this chapter, begin paying the penalty prescribed in section 10 of this

chapter on:

(1) the next May 10 which follows the date for payment prescribed in subsection (d); or

(2) the next November 10 which follows the date for payment prescribed in subsection (d);

whichever occurs first.

(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;

(2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and

(3) the assessment:

(A) would have been made on the normal assessment date if the error or neglect had not occurred; or

(B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.

SECTION 11. IC 6-1.1-37-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) Except as provided in ~~section 10.5~~ **sections 10.5 and 10.7** of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty ~~equal to ten percent (10%) of the amount of delinquent taxes~~ shall be added to the unpaid portion in the year of the initial delinquency. **The penalty is equal to an amount determined as follows:**

(1) If:

(A) an installment of property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous year for the same parcel;

the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(2) If subdivision (1) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates in May and November of each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:

(1) six (6) months; or

(2) a multiple of six (6) months.

(c) The penalties under subsection (b) are imposed only on the principal amount of the delinquent taxes.

(d) If the department of local government finance determines that an emergency has occurred which precludes the mailing of the tax

statement in any county at the time set forth in IC 6-1.1-22-8, the department shall establish by order a new date on which the installment of taxes in that county is due and no installment is delinquent if paid by the date so established.

(e) If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one (1) of those holidays.

(f) A payment to the county treasurer is considered to have been paid by the due date if the payment is:

- (1) received on or before the due date to the county treasurer or a collecting agent appointed by the county treasurer;
- (2) deposited in the United States mail:
 - (A) properly addressed to the principal office of the county treasurer;
 - (B) with sufficient postage; and
 - (C) certified or postmarked by the United States Postal Service as mailed on or before the due date; or
- (3) deposited with a nationally recognized express parcel carrier and is:
 - (A) properly addressed to the principal office of the county treasurer; and
 - (B) verified by the express parcel carrier as:
 - (i) paid in full for final delivery; and
 - (ii) received on or before the due date.

For purposes of this subsection, "postmarked" does not mean the date printed by a postage meter that affixes postage to the envelope or package containing a payment.

SECTION 12. IC 6-1.1-37-10.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 10.7. (a) For purposes of this section, "immediate family member of the taxpayer" means an individual who:**

- (1) is the spouse, child, stepchild, parent, or stepparent of the taxpayer, including adoptive relationships; and**
- (2) resides in the taxpayer's home.**

(b) The county treasurer shall do the following:

- (1) Waive the penalty imposed under section 10(a) of this chapter if the taxpayer or the taxpayer's representative:**
 - (A) petitions the county treasurer to waive the penalty not later than thirty (30) days after the due date of the installment subject to the penalty; and**
 - (B) files with the petition written proof that during the seven (7) day period ending on the installment due date the taxpayer or an immediate family member of the taxpayer died.**

(2) Give written notice to the taxpayer or the taxpayer's representative by mail of the treasurer's determination on the petition not later than thirty (30) days after the petition is filed with the treasurer.

(c) The department of local government finance shall prescribe:

- (1) the form of the petition; and**
- (2) the type of written proof;**

required under subsection (b).

(d) A taxpayer or a taxpayer's representative may appeal a determination of the county treasurer under subsection (b) to deny a penalty waiver by requesting in writing a preliminary conference with the treasurer not more than forty-five (45) days after the treasurer gives the taxpayer or the taxpayer's representative notice of the determination. An appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

SECTION 13. IC 14-33-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) An assessment not paid in full shall be paid in annual installments over the time commensurate with the term of the bond issue or other financing determined by resolution adopted by the board. Interest shall be charged on the unpaid balance at the same rate per year as the penalty charged on delinquent property tax payments under ~~IC 6-1.1-37-10~~. **IC 6-1.1-37-10(a).** All payments of installments, interest, and penalties shall be entered on the assessment roll in the office of the district.

(b) Upon payment in full of the assessment, including interest and penalties, the board shall have the lien released and satisfied on the records in the office of the recorder of the county in which the real property assessed is located.

(c) The procedure for collecting assessments for maintenance and operation is the same as for the original assessment, except that the assessments may not be paid in installments.

SECTION 14. IC 36-9-36-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 37. (a) Except as provided in section 38 of this chapter, the entire assessment is payable in cash without interest not later than thirty (30) days after the approval of the assessment roll by the works board if an agreement has not been signed and filed under section 36 of this chapter.

(b) If the assessment is not paid when due, the total assessment becomes delinquent and bears interest at the rate prescribed by ~~IC 6-1.1-37-10~~ **IC 6-1.1-37-10(a)** per year from the date of the final acceptance of the completed improvement by the works board.

SECTION 15. IC 36-9-36-55 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 55. (a) An irregularity or error in making a foreclosure sale under this chapter does not make the sale ineffective, unless the irregularity or error substantially prejudiced the property owner.

(b) A property owner has two (2) years from the date of sale in which to redeem the owner's property. The property owner may redeem the owner's property by paying the principal, interest, and costs of the judgment, plus interest on the principal, interest, and costs at the rate prescribed by ~~IC 6-1.1-37-10~~ **IC 6-1.1-37-10(a).**

(c) If the property is not redeemed, the sheriff shall execute a deed to the purchaser. The deed relates back to the final letting of the contract for the improvement and is superior to all liens, claims, and interests, except liens for taxes.

SECTION 16. IC 36-9-37-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 19. (a) If a person defaults in the payment of a waived installment of principal or interest of an assessment, the municipal fiscal officer shall mail

notice of the default to the person. The notice must meet the following conditions:

- (1) Be mailed not more than sixty (60) days after the default.
- (2) Show the amount of the default, plus interest on that amount for the number of months the person is in default at one-half (1/2) the rate prescribed by ~~IC 6-1.1-37-10~~ **IC 6-1.1-37-10(a)**.
- (3) State that the amount of the default, plus interest, is due by the date determined as follows:
 - (A) If the person selected monthly installments under ~~IC 36-9-37-8.5(a)(1)~~, **section 8.5(a)(2) of this chapter**, within sixty (60) days after the date the notice is mailed.
 - (B) If the person selected annual installments under ~~IC 36-9-37-8.5(a)(2)~~, **section 8.5(a)(1) of this chapter**, within six (6) months after the date the notice is mailed.

(b) A notice that is mailed to the person in whose name the property is assessed and addressed to the person within the municipality is sufficient notice. However, the fiscal officer shall also attempt to determine the name and address of the current owner of the property and send a similar notice to the current owner.

(c) Failure to send the notice required by this section does not preclude or otherwise affect the following:

- (1) The sale of the property for delinquency as prescribed by IC 6-1.1-24.
- (2) The foreclosure of the assessment lien by the bondholder.
- (3) The preservation of the assessment lien under section 22.5 of this chapter.

SECTION 17. IC 36-9-37-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20. (a) If any principal and interest, or an installment of principal and interest, is not paid in full when due, the municipal fiscal officer shall enforce payment of the following:

- (1) The unpaid amount of principal and interest.
- (2) A penalty of interest at the rate prescribed by subsection (b).

(b) If payment is made after a default, the municipal fiscal officer shall also collect a penalty of interest on the delinquent amount at one-half (1/2) the rate prescribed by ~~IC 6-1.1-37-10~~ **IC 6-1.1-37-10(a)** for each six (6) month period, or fraction of a six (6) month period, from the date when payment should have been made.

SECTION 18. [EFFECTIVE JANUARY 1, 2007] **IC 6-1.1-37-10, as amended by this act, applies only to ad valorem property taxes first due and payable after December 31, 2006.**

SECTION 19. [EFFECTIVE UPON PASSAGE] **(a) For ad valorem property taxes and assessments first due and payable in 2006:**

- (1) notwithstanding IC 6-1.1-18.5-12, as amended by this act, that section applies as if the date in IC 6-1.1-18.5-12(a)(2)(B) were April 1 instead of March 1; and**
- (2) notwithstanding IC 6-1.1-19-2, as amended by this act, that section applies as if the date in IC 6-1.1-19-2(d)(2)(B) were April 1 instead of March 1.**

(b) This SECTION expires January 1, 2007.

SECTION 20. [EFFECTIVE UPON PASSAGE] **IC 6-1.1-18.5-12, IC 6-1.1-19-2, IC 6-1.1-21-2, IC 6-1.1-22-3,**

IC 6-1.1-22-5, IC 6-1.1-22-9, IC 6-1.1-22-9.5, and IC 6-1.1-22.5-6, all as amended by this act, apply only to property taxes first due and payable after December 31, 2005.

SECTION 21. [EFFECTIVE JULY 1, 2006] **IC 6-1.1-37-10.7, as added by this act, applies only to property taxes first due and payable after December 31, 2006.**

SECTION 22. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] **(a) As used in this SECTION, "taxable year" has the meaning set forth in IC 6-3-1-16.**

(b) In addition to any other deduction permitted under IC 6-3, a delayed property tax payment paid in taxable year 2005 for property taxes assessed in 2002, 2003, or 2004 assessment years:

- (1) that would have been payable in 2003, 2004, or a part of calendar year 2005 that preceded the beginning of the taxpayer's 2005 taxable year if tax statements had been issued in those years; and**

- (2) where the taxpayer was not delinquent in remitting the property tax to the county treasurer when paid in taxable year 2005;**

is deductible from adjusted gross income under IC 6-3-1-3.5 in the 2006 taxable year if the property tax was not deducted in any previous taxable year. The amount of the deduction for the property taxes due for a particular assessment year is limited to the lesser of the property tax paid for the assessment year or two thousand five hundred dollars (\$2,500).

SECTION 23. **An emergency is declared for this act.**

Renumber all SECTIONS consecutively.

(Reference is to ESB 355 as reprinted February 28, 2006.)

Lawson, Chair	Ayres
Rogers	Kuzman
Senate Conferees	House Conferees

Roll Call 363: yeas 50, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 12-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 12 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Criminal justice" includes activities concerning:

- (1) the prevention or reduction of criminal offenses;
- (2) the enforcement of criminal law;
- (3) the apprehension, prosecution, and defense of persons accused of crimes;
- (4) the disposition of convicted persons, including corrections, rehabilitation, probation, and parole; and

(5) the participation of members of the community in corrections.

"Entitlement jurisdictions" include the state and certain local governmental units as defined in Section 402(a) of the Omnibus Act.

"Institute" means the Indiana criminal justice institute.

"Juvenile justice" includes activities concerning:

- (1) the prevention or reduction of juvenile delinquency;
- (2) the apprehension and adjudication of juvenile offenders;
- (3) the disposition of juvenile offenders including protective techniques and practices;
- (4) the prevention of child abuse and neglect; and
- (5) the discovery, protection, and disposition of children in need of services.

"Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 and any amendments made to that act.

"Local governmental entities" include:

- (1) trial courts; and
- (2) political subdivisions (as defined in IC 36-1-2-13).

~~"Offender" has the meaning set forth in IC 5-2-12-4.~~

"Omnibus Act" means the Omnibus Crime Control and Safe Streets Act of 1968 and any amendments made to that act.

"Trustees" refers to the board of trustees of the institute.

SECTION 2. IC 5-2-6-3, AS AMENDED BY P.L.192-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The institute is established to do the following:

- (1) Evaluate state and local programs associated with:
 - (A) the prevention, detection, and solution of criminal offenses;
 - (B) law enforcement; and
 - (C) the administration of criminal and juvenile justice.
- (2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
- (3) Stimulate criminal and juvenile justice research.
- (4) Develop new methods for the prevention and reduction of crime.
- (5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
- (6) Administer victim and witness assistance funds.
- (7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
- (8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
- (9) Serve as the criminal justice statistical analysis center for this state.
- ~~(10) Establish and maintain, in cooperation with the office of the secretary of family and social services, a sex and violent offender directory.~~
- (10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.**
- (11) Administer the application and approval process for designating an area of a consolidated or second class city as a

public safety improvement area under IC 36-8-19.5.

~~(12) Prescribe or approve forms as required under IC 5-2-12.~~

~~(13) Provide judges, law enforcement officers, prosecuting attorneys, parole officers, and probation officers with information and training concerning the requirements in IC 5-2-12 and the use of the sex and violent offender directory.~~

~~(14)~~ **(12)** Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 3. IC 5-2-6-14, AS AMENDED BY P.L.64-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

- (1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;
- (2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or
- (3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

- (1) pay the costs of administering the fund, including expenditures for personnel and data;
- (2) ~~establish and maintain support~~ the **Indiana sex and violent offender directory registry** under ~~IC 5-2-12~~; **IC 11-8-8**;
- (3) provide training for persons to assist victims; and
- (4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 4. IC 10-13-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

- (1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.
- (2) Information regarding a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-5**) obtained through sex ~~and violent~~ offender registration under ~~IC 5-2-12~~; **IC 11-8-8**.

(3) Any disposition, including sentencing, and correctional system intake, transfer, and release.

SECTION 5. IC 10-13-3-27, AS AMENDED BY P.L.234-2005 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) Except as provided in subsection (b), on request, ~~a law enforcement agencies~~ **agency** shall release ~~or allow inspection of~~ a limited criminal history to ~~or allow inspection of a limited criminal history by~~ noncriminal justice organizations or individuals only if the subject of the request:

- (1) has applied for employment with a noncriminal justice organization or individual;
- (2) has applied for a license and **has provided** criminal history data as required by law to be provided in connection with the license;
- (3) is a candidate for public office or a public official;
- (4) is in the process of being apprehended by a law enforcement agency;
- (5) is placed under arrest for the alleged commission of a crime;
- (6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;
- (7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
- (8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
- (9) is currently residing in a location designated by the department of child services (established by IC 31-33-1.5-2) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;
- (10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;
- (11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of family and children;
- (12) is being sought by the parent locator service of the child support bureau of the division of family and children;
- (13) is or was required to register as a sex ~~and violent~~ offender under ~~IC 5-2-12~~, **IC 11-8-8**; or
- (14) has been convicted of any of the following:
 - (A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
 - (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.
 - (C) Child molesting (IC 35-42-4-3).
 - (D) Child exploitation (IC 35-42-4-4(b)).
 - (E) Possession of child pornography (IC 35-42-4-4(c)).
 - (F) Vicarious sexual gratification (IC 35-42-4-5).
 - (G) Child solicitation (IC 35-42-4-6).
 - (H) Child seduction (IC 35-42-4-7).
 - (I) Sexual misconduct with a minor as a felony (IC

35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

- (1) Federally chartered or insured banking institutions.
- (2) Officials of state and local government for any of the following purposes:
 - (A) Employment with a state or local governmental entity.
 - (B) Licensing.
- (3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 6. IC 10-13-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, if the agency has complied with the reporting requirements in section 24 of this chapter, and the department shall do the following:

- (1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.
- (2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.
- (3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:

- (1) has been requested; and
- (2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the **Indiana** sex ~~and violent~~ offender ~~directory registry~~ under ~~IC 5-2-6~~ **IC 11-8-8** or concerns a person required to register as a sex ~~and violent~~ offender under ~~IC 5-2-12~~, **IC 11-8-8**.

SECTION 7. IC 10-13-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. As used in this chapter, "juvenile history data" means information collected by criminal or juvenile justice agencies or individuals about a child who is alleged to have committed a reportable act and consists of the following:

- (1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.

- (2) A petition alleging that the child is a delinquent child.
- (3) Dispositional decrees concerning the child that are entered under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).
- (4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or IC 31-6-4-19(i) before their repeal) concerning the child.

(5) Information:

- (A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in ~~IC 5-2-12-4~~ **IC 11-8-8-5** if committed by an adult; and
- (B) that is obtained through sex ~~and violent~~ offender registration under ~~IC 5-2-12~~ **IC 11-8-8**.

SECTION 8. IC 10-13-6-10, AS AMENDED BY P.L.142-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) This section applies to the following:

- (1) A person convicted of a felony under IC 35-42 (offenses against the person) or IC 35-43-2-1 (burglary):
 - (A) after June 30, 1996, whether or not the person is sentenced to a term of imprisonment; or
 - (B) before July 1, 1996, if the person is held in jail or prison on or after July 1, 1996.
- (2) A person convicted of a criminal law in effect before October 1, 1977, that penalized an act substantially similar to a felony described in IC 35-42 or IC 35-43-2-1 or that would have been an included offense of a felony described in IC 35-42 or IC 35-43-2-1 if the felony had been in effect:
 - (A) after June 30, 1998, whether or not the person is sentenced to a term of imprisonment; or
 - (B) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.
- (3) A person convicted of a felony, conspiracy to commit a felony, or attempt to commit a felony:
 - (A) after June 30, 2005, whether or not the person is sentenced to a term of imprisonment; or
 - (B) before July 1, 2005, if the person is held in jail or prison on or after July 1, 2005.

(b) A person described in subsection (a) shall provide a DNA sample to the:

- (1) department of correction or the designee of the department of correction if the offender is committed to the department of correction; ~~or~~
- (2) county sheriff or the designee of the county sheriff if the offender is held in a county jail or other county penal facility, placed in a community corrections program (as defined in IC 35-38-2.6-2), or placed on probation; **or**
- (3) **agency that supervises the person, or the agency's designee, if the person is on conditional release in accordance with IC 35-38-1-27.**

A person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's health.

(c) The detention, arrest, or conviction of a person based on a data base match or data base information is not invalidated if a court

determines that the DNA sample was obtained or placed in the Indiana DNA data base by mistake.

SECTION 9. IC 10-13-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The superintendent may issue specific guidelines relating to procedures for DNA sample collection and shipment within Indiana for DNA identification testing.

(b) The superintendent shall issue specific guidelines related to procedures for DNA sample collection and shipment by the:

- (1) county sheriff or designee of the county sheriff under section 10(b)(2) of this chapter; **or**
- (2) **supervising agency or designee of the supervising agency under section 10(b)(3) of this chapter.**

The superintendent shall provide each county sheriff **and supervising agency** with the guidelines issued under this subsection. A county sheriff **and supervising agency** shall collect and ship DNA samples in compliance with the guidelines issued under this subsection.

(c) The superintendent may delay the implementation of the collection of DNA samples under section 10(b)(2) **or 10(b)(3)** of this chapter in one (1) or more counties until the earlier of the following:

- (1) A date set by the superintendent.
- (2) The date funding becomes available by grant through the criminal justice institute.

If the superintendent delays implementation of section 10(b)(2) **or 10(b)(3)** of this chapter or terminates a delay under section 10(b)(2) **or 10(b)(3)** of this chapter in any county, the superintendent shall notify the county sheriff in writing of the superintendent's action.

SECTION 10. IC 11-8-2-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 12. The department shall do the following:**

- (1) **Maintain the Indiana sex offender registry established under IC 36-2-13-5.5.**
- (2) **Prescribe and approve a format for sex offender registration as required by IC 11-8-8.**
- (3) **Provide:**
 - (A) **judges;**
 - (B) **law enforcement officials;**
 - (C) **prosecuting attorneys;**
 - (D) **parole officers;**
 - (E) **probation officers; and**
 - (F) **community corrections officials;**
- with information and training concerning the requirements of IC 11-8-8 and the use of the Indiana sex offender registry.**
- (4) **Upon request of a neighborhood association:**
 - (A) **transmit to the neighborhood association information concerning sex offenders who reside near the location of the neighborhood association; or**
 - (B) **provide instructional materials concerning the use of the Indiana sex offender registry to the neighborhood association.**

SECTION 11. IC 11-8-2-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2006]: **Sec. 13. (a) The Indiana sex offender registry established under IC 36-2-13-5.5 and maintained by the department under section 12 of this chapter must include the names of each offender who is or has been required to register under IC 11-8-8.**

(b) The department shall do the following:

- (1) Ensure that the Indiana sex offender registry is updated at least once per day with information provided by a local law enforcement authority (as defined in IC 11-8-8-2).**
- (2) Publish the Indiana sex offender registry on the Internet through the computer gateway administered by the office of technology established by IC 4-13.1-2-1, and ensure that the Indiana sex offender registry displays the following or similar words:**

"Based on information submitted to law enforcement, a person whose name appears in this registry has been convicted of a sex offense or has been adjudicated a delinquent child for an act that would be a sex offense if committed by an adult."

SECTION 12. IC 11-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2. (a) The department may, under IC 4-22-2, classify as confidential the following personal information maintained on a person who has been committed to the department or who has received correctional services from the department:**

- (1) Medical, psychiatric, or psychological data or opinion which might adversely affect that person's emotional well-being.**
- (2) Information relating to a pending investigation of alleged criminal activity or other misconduct.**
- (3) Information which, if disclosed, might result in physical harm to that person or other persons.**
- (4) Sources of information obtained only upon a promise of confidentiality.**
- (5) Information required by law or promulgated rule to be maintained as confidential.**

(b) The department may deny the person about whom the information pertains and other persons access to information classified as confidential under subsection (a). However, confidential information shall be disclosed:

- (1) upon the order of a court;**
- (2) to employees of the department who need the information in the performance of their lawful duties;**
- (3) to other agencies in accord with IC 4-1-6-2(m) and IC 4-1-6-8.5;**
- (4) to the governor or the governor's designee;**
- (5) for research purposes in accord with IC 4-1-6-8.6(b);**
- (6) to the department of correction ombudsman bureau in accord with IC 11-11-1.5; or**
- (7) if the commissioner determines there exists a compelling public interest as defined in IC 4-1-6-1, for disclosure which overrides the interest to be served by nondisclosure.**

(c) The department shall disclose information classified as confidential under subsection (a)(1) to a physician, psychiatrist, or psychologist designated in writing by the person about whom the information pertains.

(d) The department may disclose confidential information to the following:

- (1) A provider of sex offender management, treatment, or programming.**
- (2) A provider of mental health services.**
- (3) Any other service provider working with the department to assist in the successful return of an offender to the community following the offender's release from incarceration.**

(e) This subsection does not prohibit the department from sharing information available on the Indiana sex offender registry with another person.

SECTION 13. IC 11-8-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 8. Sex Offender Registration

Sec. 1. As used in this chapter, "correctional facility" has the meaning set forth in IC 4-13.5-1-1.

Sec. 2. As used in this chapter, "local law enforcement authority" means the:

- (1) chief of police of a consolidated city; or**
- (2) sheriff of a county that does not contain a consolidated city.**

Sec. 3. As used in this chapter, "principal residence" means the residence where a sex offender spends the most time. The term includes a residence owned or leased by another person if the sex offender:

- (1) does not own or lease a residence; or**
- (2) spends more time at the residence owned or leased by the other person than at the residence owned or leased by the sex offender.**

Sec. 4. As used in this chapter, "register" means to provide a local law enforcement authority with the information required under section 8 of this chapter.

Sec. 5. (a) As used in this chapter, "sex offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).**
- (2) Criminal deviate conduct (IC 35-42-4-2).**
- (3) Child molesting (IC 35-42-4-3).**
- (4) Child exploitation (IC 35-42-4-4(b)).**
- (5) Vicarious sexual gratification (IC 35-42-4-5).**
- (6) Child solicitation (IC 35-42-4-6).**
- (7) Child seduction (IC 35-42-4-7).**
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).**
- (9) Incest (IC 35-46-1-3).**
- (10) Sexual battery (IC 35-42-4-8).**
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.**
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.**
- (13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).**
- (14) An attempt or conspiracy to commit a crime listed in**

subdivisions (1) through (13).

(15) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (14).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

Sec. 6. As used in this chapter, "sexually violent predator" has the meaning set forth in IC 35-38-1-7.5.

Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:

(1) A sex offender who resides in Indiana. A sex offender resides in Indiana if either of the following applies:

(A) The sex offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period:

(A) exceeding fourteen (14) consecutive days; or

(B) for a total period exceeding thirty (30) days;

during any calendar year in Indiana, whether the sex offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), a sex offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex offender resides. If a sex offender resides in more than one (1) county, the sex offender shall register with the local law enforcement authority in each county in which the sex offender resides. If the sex offender is also required to register under subsection (a)(2) or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the

sex offender is or intends to be employed or carry on a vocation. If a sex offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex offender shall register with the local law enforcement authority in each county. If the sex offender is also required to register under subsection (a)(1) or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex offender is enrolled or intends to be enrolled as a student. If the sex offender is also required to register under subsection (a)(1) or (a)(2), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) A sex offender committed to the department shall register with the department before the sex offender is released from incarceration. The department shall forward the sex offender's registration information to the local law enforcement authority of every county in which the sex offender is required to register.

(g) This subsection does not apply to a sex offender who is a sexually violent predator. A sex offender not committed to the department shall register not more than seven (7) days after the sex offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the sex offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex offender who is a sexually violent predator. A sex offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex offender registers under this section shall make and publish a photograph of the sex offender on the Indiana sex offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex offender registry web site established under IC 36-2-13-5.5.

(j) When a sex offender registers, the local law enforcement authority shall:

- (1) immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5; and
- (2) notify every law enforcement agency having jurisdiction in the county where the sex offender resides.

The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex offender during registration.

Sec. 8. The registration required under this chapter must include the following information:

- (1) The sex offender's full name, alias, any name by which the sex offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification number, principal residence address, and mailing address, if different from the sex offender's principal residence address.
- (2) A description of the offense for which the sex offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.
- (3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex offender's employers in Indiana, the name and

address of each campus or location where the sex offender is enrolled in school in Indiana, and the address where the sex offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex offender.

(5) If the sex offender is a sexually violent predator, that the sex offender is a sexually violent predator.

(6) If the sex offender is required to register for life, that the sex offender is required to register for life.

(7) Any other information required by the department.

Sec. 9. (a) Not more than seven (7) days before an Indiana sex offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender was orally informed or, if the sex offender refuses to sign the statement, certify that the sex offender was orally informed of the duty to register.

(2) Deliver a form advising the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender received the written notice or, if the sex offender refuses to sign the statement, certify that the sex offender was given the written notice of the duty to register.

(3) Obtain the address where the sex offender expects to reside after the sex offender's release.

(4) Transmit to the local law enforcement authority in the county where the sex offender expects to reside the sex offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex offender.

(b) Not more than seventy-two (72) hours after a sex offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex offender's fingerprints, photograph, and identification factors.

(2) The address where the sex offender expects to reside after the sex offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex offender.

(4) Information regarding the sex offender's past treatment for mental disorders.

(5) Information as to whether the sex offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex offender is sentenced shall perform the duties required under subsections (a) and (b).

Sec. 10. Notwithstanding any other law, upon receiving a sex

offender's fingerprints from a correctional facility, the state police shall immediately send the fingerprints to the Federal Bureau of Investigation.

Sec. 11. (a) If a sex offender who is required to register under this chapter changes:

- (1) principal residence address; or
- (2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex offender stays in Indiana;

the sex offender shall register not more than seventy-two (72) hours after the address change with the local law enforcement authority with whom the sex offender last registered.

(b) If a sex offender moves to a new county in Indiana, the local law enforcement authority referred to in subsection (a) shall inform the local law enforcement authority in the new county in Indiana of the sex offender's residence and forward all relevant registration information concerning the sex offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex offender's principal place of employment, principal place of vocation, or campus or location where the sex offender is enrolled in school, the sex offender shall register not more than seventy-two (72) hours after the change with the local law enforcement authority with whom the sex offender last registered.

(d) If a sex offender moves the sex offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority referred to in subsection (c) shall inform the local law enforcement authority in the new county of the sex offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex offender moves the sex offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex offender's new place of residence, employment, or enrollment.

(f) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex offender.

(g) A local law enforcement authority who is notified of a change under subsection (a) or (c) shall immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5.

Sec. 12. (a) As used in this section, "temporary residence" means a residence:

- (1) that is established to provide transitional housing for a person without another residence; and
- (2) in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex offender who resides in a

temporary residence. In addition to the other requirements of this chapter, a sex offender who resides in a temporary residence shall register in person with the local law enforcement authority in which the temporary residence is located:

- (1) not more than seventy-two (72) hours after the sex offender moves into the temporary residence; and
- (2) during the period in which the sex offender resides in a temporary residence, at least once every seven (7) days following the sex offender's initial registration under subdivision (1).

(c) A sex offender's obligation to register in person once every seven (7) days terminates when the sex offender no longer resides in the temporary residence. However, all other requirements imposed on a sex offender by this chapter continue in force, including the requirement that a sex offender register the sex offender's new address with the local law enforcement authority.

Sec. 13. (a) To verify a sex offender's current residence, the local law enforcement authority shall do the following:

- (1) Mail a reply form to each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;
- (D) placed on parole; or
- (E) placed on probation;

whichever occurs first.

- (2) Mail a reply form to each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;
- (D) placed on parole; or
- (E) placed on probation;

whichever occurs first.

- (3) Personally visit each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;

- (D) placed on parole; or
 - (E) placed on probation;
- whichever occurs first.

(4) Personally visit each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
 - (B) placed in a community transition program;
 - (C) placed in a community corrections program;
 - (D) placed on parole; or
 - (E) placed on probation;
- whichever occurs first.

(b) If a sex offender fails to return a signed reply form either by mail or in person, not later than fourteen (14) days after mailing, or appears not to reside at the listed address, the local law enforcement authority shall immediately notify the department and the prosecuting attorney.

Sec. 14. At least once per calendar year, a sex offender who is required to register under this chapter shall:

- (1) report in person to the local law enforcement authority;
 - (2) register; and
 - (3) be photographed by the local law enforcement authority;
- in each location where the offender is required to register.

Sec. 15. (a) A sex offender who is a resident of Indiana shall obtain and keep in the sex offender's possession:

- (1) a valid Indiana driver's license; or
- (2) a valid Indiana identification card (as described in IC 9-24-16).

(b) A sex offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the sex offender's possession:

- (1) a valid driver's license issued by the state in which the sex offender resides; or
- (2) a valid state issued identification card issued by the state in which the sex offender resides.

(c) A person who knowingly or intentionally violates this section commits failure of a sex offender to possess identification, a Class A misdemeanor. However, the offense is a Class D felony if the person:

- (1) is a sexually violent predator; or
- (2) has a prior unrelated conviction:
 - (A) under this section; or
 - (B) based on the person's failure to comply with any requirement imposed on an offender under this chapter.

(d) It is a defense to a prosecution under this section that:

- (1) the person has been unable to obtain a valid driver's license or state issued identification card because less than thirty (30) days have passed since the person's release from incarceration; or
- (2) the person possesses a driver's license or state issued

identification card that expired not more than thirty (30) days before the date the person violated subsection (a) or (b).

Sec. 16. (a) A sex offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex offender who is required to register under this chapter changes the sex offender's name due to marriage, the sex offender must register with the local law enforcement authority not more than seven (7) days after the name change.

Sec. 17. A sex offender who knowingly or intentionally:

- (1) fails to register when required to register under this chapter;
- (2) fails to register in every location where the sex offender is required to register under this chapter;
- (3) makes a material misstatement or omission while registering as a sex offender under this chapter; or
- (4) fails to register in person and be photographed at least one (1) time per year as required under this chapter;

commits a Class D felony. However, the offense is a Class C felony if the sex offender has a prior unrelated conviction for an offense under this section or based on the person's failure to comply with any requirement imposed on a sex offender under this chapter.

Sec. 18. (a) A sexually violent predator who will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours shall inform the local law enforcement authority, in person or in writing, of the following:

- (1) That the sexually violent predator will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours.
- (2) The location where the sexually violent predator will be located during the absence from the sexually violent predator's principal residence.
- (3) The length of time the sexually violent predator will be absent from the sexually violent predator's principal residence.

(b) A sexually violent predator who will spend more than seventy-two (72) hours in a county in which the sexually violent predator is not required to register shall inform the local law enforcement authority in the county in which the sexually violent predator is not required to register, in person or in writing, of the following:

- (1) That the sexually violent predator will spend more than seventy-two (72) hours in the county.
- (2) The location where the sexually violent predator will be located while spending time in the county.
- (3) The length of time the sexually violent predator will remain in the county.

Upon request of the local law enforcement authority of the county in which the sexually violent predator is not required to register, the sexually violent predator shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the sexually violent predator's whereabouts during the sexually

violent predator's stay in the county.

(c) A sexually violent predator who knowingly or intentionally violates this section commits failure to notify, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section based on the person's failure to comply with any requirement imposed on a sex offender under this chapter.

Sec. 19. (a) Except as provided in subsections (b) through (e), a sex offender is required to register under this chapter until the expiration of ten (10) years after the date the sex offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;
- (2) is placed in a community transition program;
- (3) is placed in a community corrections program;
- (4) is placed on parole; or
- (5) is placed on probation;

whichever occurs last. The department shall ensure that an offender who is no longer required to register as a sex offender is notified that the obligation to register has expired.

(b) A sex offender who is a sexually violent predator is required to register for life.

(c) A sex offender who is convicted of at least one (1) sex offense that the sex offender committed:

- (1) when the person was at least eighteen (18) years of age; and
- (2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) A sex offender who is convicted of at least one (1) sex offense in which the sex offender:

- (1) proximately caused serious bodily injury or death to the victim;
- (2) used force or the threat of force against the victim or a member of the victim's family; or
- (3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) A sex offender who is convicted of at least two (2) unrelated sex offenses is required to register for life.

Sec. 20. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of a sex offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.

(c) If the state agency receives information that a sex offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, the state agency shall inform in writing the local law enforcement authority where the sex offender is required to register in Indiana of:

- (1) the sex offender's name, date of relocation, and new address; and

(2) the sex offense or delinquent act committed by the sex offender.

(d) The state agency shall determine, following a hearing:

- (1) whether a person convicted of an offense in another jurisdiction is required to register as a sex offender in Indiana;
- (2) whether an out of state sex offender is a sexually violent predator; and
- (3) the period in which an out of state sex offender who has moved to Indiana will be required to register as a sex offender in Indiana.

SECTION 14. IC 11-13-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the final decision shall be rendered by the full parole board based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:

- (1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;
- (2) official reports of the person's history of criminality;
- (3) reports of earlier parole or probation experiences;
- (4) reports concerning the person's present commitment that are relevant to the parole release determination;
- (5) any relevant information submitted by or on behalf of the person being considered; and
- (6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

- (1) to be discharged from imprisonment;
- (2) to be released on parole under IC 35-50-6-1;
- (3) to have a parole release hearing under this chapter;
- (4) to have a parole violation hearing;
- (5) an escaped committed offender; or
- (6) to be released from departmental custody under any temporary release program administered by the department, including the following:

- (A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a

regulated community assignment program.

(B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

- (1) at least forty (40) days before a discharge, release, or hearing occurs; and
- (2) not later than twenty-four (24) hours after the escape of a committed offender.

The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, **is being released on lifetime parole**, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

- (1) The name of the prisoner.
- (2) The date of the offense.
- (3) The date of the conviction.
- (4) The felony of which the prisoner was convicted.
- (5) The sentence imposed.
- (6) The amount of time served.
- (7) The date and location of the interview (if applicable).

(h) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:

- (1) nature and circumstances of the crime for which the offender is committed;
- (2) offender's prior criminal record;
- (3) offender's conduct and attitude during the commitment; and
- (4) offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

- (1) reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being considered;
- (2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;
- (3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence;
- (4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and
- (5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

- (1) will engage in further specified criminal activity; or
- (2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

- (1) finds that special circumstances exist for the holding of a hearing; and
- (2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), the board shall order and consider a community investigation, which must include an investigation and report that substantially reflects the attitudes and opinions of:

- (1) the community in which the crime committed by the offender occurred;
- (2) law enforcement officers who have jurisdiction in the community in which the crime occurred;
- (3) the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's relatives or friends; and
- (4) friends or relatives of the offender.

If the board reconsiders for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community

investigation prepared for an earlier parole hearing to comply with this subsection. However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.

(n) As used in this section, "victim" means a person who has suffered direct harm as a result of a violent crime (as defined in IC 5-2-6.1-8).

SECTION 15. IC 11-13-3-4, AS AMENDED BY SEA 246-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
 - (A) the residence of the parolee prior to the parolee's incarceration; and
 - (B) the parolee's place of employment; and
- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
- (2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

- (1) may require a parolee who is a sex ~~and violent~~ offender (as

defined in ~~IC 5-2-12-4~~ **IC 11-8-8-5**) to:

- (A) participate in a treatment program for sex offenders approved by the parole board; and
- (B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

- (i) receives the parole board's approval; or
- (ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is ~~an~~ a sex offender (as defined in ~~IC 5-2-12-4~~ **IC 11-8-8-5**) to register with a sheriff ~~(or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12-5~~ **IC 11-8-8**;

(B) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, **unless the sex offender obtains written approval from the parole board; and**

(C) prohibit a parolee who is ~~an~~ a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense **unless the sex offender obtains a waiver under IC 35-38-2-2.5; and**

(D) prohibit a parolee from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age.

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is ~~an~~ a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, **even if the sex offender obtains a waiver under IC 35-38-2-2.5.**

(i) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(j) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

SECTION 16. IC 11-13-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) This section shall not be construed to limit ~~victim's~~ **victims'** rights granted by IC 35-40 or any other law.

(b) As used in this section, "sex offense" refers to a sex offense described in ~~IC 5-2-12-4(1)~~ **IC 11-8-8-5**.

(c) As used in this section, "victim" means a person who has suffered direct harm as a result of a delinquent act that would be a sex offense if the delinquent offender were an adult. The term includes a victim's representative appointed under IC 35-40-13.

(d) Unless a victim has requested in writing not to be notified, the department shall notify the victim involved in the adjudication of a delinquent offender committed to the department for a sex offense of the delinquent offender's:

- (1) discharge from the department of correction;
- (2) release from the department of correction under any temporary release program administered by the department;
- (3) release on parole;
- (4) parole release hearing under this chapter;
- (5) parole violation hearing under this chapter; or
- (6) escape from commitment to the department of correction.

(e) The department shall make the notification required under subsection (d):

- (1) at least forty (40) days before a discharge, release, or hearing occurs; and
- (2) not later than twenty-four (24) hours after the escape of a delinquent offender from commitment to the department of correction.

The department shall supply the information to a victim at the address supplied to the department by the victim. A victim is responsible for supplying the department with any change of address or telephone number of the victim.

(f) The probation officer or caseworker preparing the predispositional report under IC 31-37-17 shall inform the victim before the predispositional report is prepared of the right of the victim to receive notification from the department under subsection (d). The probation department or county office of family and children shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department. The probation department or county office of family and children shall supply the department with the information required by this section as soon as possible but not later than five (5) days after the receipt of the information. A victim is responsible for supplying the department with the correct address and telephone number of the victim.

(g) Notwithstanding IC 11-8-5-2 and IC 4-1-6, a delinquent offender may not have access to the name and address of a victim. Upon the filing of a motion by a person requesting or objecting to the release of victim information or representative information, or both, that is retained by the department, the court shall review in camera the information that is the subject of the motion before ruling on the motion.

(h) The notice required under subsection (d) must specify whether the delinquent offender is being discharged, is being released under a temporary release program administered by the department, is being released on parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

- (1) The name of the delinquent offender.
- (2) The date of the delinquent act.
- (3) The date of the adjudication as a delinquent offender.
- (4) The delinquent act of which the delinquent offender was adjudicated.
- (5) The disposition imposed.
- (6) The amount of time for which the delinquent offender was committed to the department.
- (7) The date and location of the interview (if applicable).

SECTION 17. IC 31-19-11-1, AS AMENDED BY P.L.129-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

- (1) the adoption requested is in the best interest of the child;
- (2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;
- (3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;
- (4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;
- (5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;
- (6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

- (7) proper consent, if consent is necessary, to the adoption has been given;
- (8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and
- (9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the department's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).

- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery as a felony (IC 35-42-2-1).
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).
- (10) A felony sex offense under IC 35-42-4.
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
- (15) Child selling (IC 35-46-1-4(d)).
- (16) A felony involving a weapon under IC 35-47 or IC 35-47.5.
- (17) A felony relating to controlled substances under IC 35-48-4.
- (18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
- (19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~an~~ a sex offender (as defined in ~~IC 5-2-12-4~~ **IC 11-8-8-5**).

SECTION 18. IC 31-30-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2006]: **Sec. 2.5. A juvenile court may not appoint a person to serve as the guardian or custodian of a child if the person is:**

- (1) a sexually violent predator (as described in IC 35-38-1-7.5); or**
- (2) a person who was at least eighteen (18) years of age at the time of the offense and who committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:**
 - (A) by using or threatening the use of deadly force;**
 - (B) while armed with a deadly weapon; or**
 - (C) that resulted in serious bodily injury.**

SECTION 19. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

- (1) Order supervision of the child by:
 - (A) the probation department; or
 - (B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile court shall after a determination under ~~IC 5-2-12-4~~ **IC 11-8-8-5** require a child who is adjudicated a delinquent child for an act

that would be an offense described in ~~IC 5-2-12-4~~ **IC 11-8-8-5** if committed by an adult to register with the ~~sheriff (or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12~~ **IC 11-8-8**.

- (2) Order the child to receive outpatient treatment:
 - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
 - (B) from an individual practitioner.
- (3) Order the child to surrender the child's driver's license to the court for a specified period of time.
- (4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.
- (5) Partially or completely emancipate the child under section 27 of this chapter.
- (6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.
- (7) Order the child to perform community restitution or service for a specified period of time.
- (8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 20. IC 31-37-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) After a juvenile court makes a determination under ~~IC 5-2-12-4~~ **IC 11-8-8-5**, the juvenile court may, in addition to an order under section 6 of this chapter, and if the child:

- (1) is at least thirteen (13) years of age and less than sixteen (16) years of age; and
- (2) committed an act that, if committed by an adult, would be:
 - (A) murder (IC 35-42-1-1);
 - (B) kidnapping (IC 35-42-3-2);
 - (C) rape (IC 35-42-4-1);
 - (D) criminal deviate conduct (IC 35-42-4-2); or
 - (E) robbery (IC 35-42-5-1) if the robbery was committed while armed with a deadly weapon or if the robbery resulted in bodily injury or serious bodily injury;

order wardship of the child to the department of correction for a fixed period that is not longer than the date the child becomes eighteen (18) years of age, subject to IC 11-10-2-10.

(c) Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section (or IC 31-6-4-15.9(b)(8) before its repeal).

SECTION 21. IC 35-38-1-7.5, AS AMENDED BY SEA 246-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.5. (a) As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in any of the offenses described in ~~IC 5-2-12-4~~ **IC 11-8-8-5**. **The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).**

(b) A person who:

(1) **being at least eighteen (18) years of age, commits an offense described in:** ~~IC 5-2-12-4;~~

(A) **by using or threatening the use of deadly force;**

(B) **while armed with a deadly weapon; or**

(C) **that results in serious bodily injury to a person other than a defendant;**

(2) **is at least eighteen (18) years of age and commits an offense described in** ~~IC 5-2-12-4~~ **against a child less than twelve (12) years of age; or**

(3) **commits an offense described in** ~~IC 5-2-12-4~~ **while having a previous unrelated conviction for an offense described in** ~~IC 5-2-12-4~~ **for which the person is required to register as an offender under** ~~IC 5-2-12;~~

(A) **IC 35-42-4-1;**

(B) **IC 35-42-4-2;**

(C) **IC 35-42-4-3 as a Class A or Class B felony;**

(D) **IC 35-42-4-5(a)(1);**

(E) **IC 35-42-4-5(a)(2);**

(F) **IC 35-42-4-5(a)(3);**

(G) **IC 35-42-4-5(b)(1) as a Class A or Class B felony;**

(H) **IC 35-42-4-5(b)(2); or**

(I) **IC 35-42-4-5(b)(3) as a Class A or Class B felony; or**
 (2) **commits an offense described in IC 11-8-8-5 while having a previous unrelated conviction for an offense described in IC 11-8-8-5 for which the person is required to register as an offender under IC 11-8-8;**

is a sexually violent predator.

(c) This section applies whenever a court sentences a person for a sex offense listed in ~~IC 5-2-12-4~~ **IC 11-8-8-5** for which the person is required to register with the ~~sheriff (or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12;~~ **IC 11-8-8.**

(d) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator under subsection (b).

(e) If the court does not find the person to be a sexually violent predator under subsection (b), the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders to determine if the person is a sexually violent predator under subsection (a).

(f) If the court finds that a person is a sexually violent predator:

(1) the person is required to register with the ~~sheriff (or the police chief of a consolidated city)~~ **local law enforcement authority** as provided in ~~IC 5-2-12-13(b)~~ **IC 11-8-8;** and

(2) the court shall send notice of its finding under this subsection to the ~~criminal justice institute~~ **department of correction.**

(g) A person who is found by a court to be a sexually violent predator ~~under subsection (e)~~ may petition the court to consider whether the person **is should** no longer **be considered** a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

(1) the sentencing court makes its finding under subsection (e);
or

(2) **a person found to be a sexually violent predator under subsection (b) is released from incarceration.**

A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person **is should** no longer **be considered** a sexually violent predator, the court shall send notice to the ~~Indiana criminal justice institute~~ **department of correction** that the person is no longer considered a sexually violent predator. **Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.**

SECTION 22. IC 35-38-1-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) If a court imposes a sentence that does not involve a commitment to the department of correction, the court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10; and

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6;

to provide a DNA sample as a condition of the sentence.

(b) If a person described in subsection (a) is confined at the time of sentencing, the court shall order the person to provide a DNA sample immediately after sentencing.

(c) If a person described in subsection (a) is not confined at the time of sentencing, the agency supervising the person after sentencing shall establish the date, time, and location for the person to provide a DNA sample. However, the supervising agency must require that the DNA sample be provided not more than seven (7) days after sentencing. A supervising agency's failure to obtain a DNA sample not more than seven (7) days after sentencing does not permit a person required to provide a DNA sample to challenge the requirement that the person provide a DNA sample at a later date.

(d) **A person's failure to provide a DNA sample is grounds for revocation of the person's probation, community corrections placement, or other conditional release.**

SECTION 23. IC 35-38-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.2. As a condition of probation for ~~an~~ a sex offender (as defined in ~~IC 5-2-12-4~~ **IC 11-8-8-5**), the court shall:

(1) require the ~~sex~~ offender to register with the ~~sheriff (or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12-5;~~ **IC 11-8-8;** and

(2) prohibit the ~~sex~~ offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the ~~sex~~ offender obtains written approval from the court.

If the court allows the ~~sex~~ offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the ~~sex~~ offender's residence of the order.

SECTION 24. IC 35-38-2-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

- (1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment.
- (2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
- (4) Support the person's dependents and meet other family responsibilities.
- (5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.
- (6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.
- (7) Pay a fine authorized by IC 35-50.
- (8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.
- (9) Report to a probation officer at reasonable times as directed by the court or the probation officer.
- (10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
- (11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
- (12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
- (13) Perform uncompensated work that benefits the community.
- (14) Satisfy other conditions reasonably related to the person's rehabilitation.
- (15) Undergo home detention under IC 35-38-2.5.
- (16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:
 - (A) the person had been convicted of a sex crime listed in IC 35-38-1-7.1(e) and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in IC 35-38-1-7.1(b)(8); or
 - (B) the person had been convicted of an offense related to a controlled substance listed in IC 35-38-1-7.1(f) and the offense involved the conditions described in IC 35-38-1-7.1(b)(9)(A).
- (17) Refrain from any direct or indirect contact with an individual.
- (18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs

incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) As a condition of probation, a court shall require a person:

- (1) convicted of an offense described in IC 10-13-6-10;**
- (2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and**
- (3) whose sentence does not involve a commitment to the department of correction;**

to provide a DNA sample as a condition of probation.

SECTION 25. IC 35-38-2-2.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.4. As a condition of probation, the court may require ~~an~~ **a sex offender** (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-5**) to:

- (1) participate in a treatment program for sex offenders approved by the court; and
- (2) avoid contact with any person who is less than sixteen (16) years of age unless the probationer:
 - (A) receives the court's approval; or
 - (B) successfully completes the treatment program referred to in subdivision (1).

SECTION 26. IC 35-38-2-2.5, AS AMENDED BY SEA 246-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.

(b) As used in this section, "sex offense" means any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual battery (IC 35-42-4-8).
- (9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
- (10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

- (1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:
 - (A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or
 - (B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or
- (2) who will be placed on parole shall provide the parole board with the address where the offender intends to reside during the period of parole.

(e) An offender, while on probation or parole, may not establish a **new** residence within one (1) mile of the residence of the victim of the offender's sex offense **unless the offender first obtains a waiver from the:**

- (1) court, if the offender is placed on probation; or**
 - (2) parole board, if the offender is placed on parole;**
- for the change of address under subsection (f).**

(f) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the offender is present and of which the prosecuting attorney has been notified, determines that:

- (1) the offender has successfully completed a sex offender treatment program during the period of probation or parole;**
- (2) the offender is in compliance with all terms of the offender's probation or parole; and**
- (3) good cause exists to allow the offender to reside within one (1) mile of the residence of the victim of the offender's sex offense.**

However, the court or parole board may not grant a waiver under this subsection if the offender is a sexually violent predator under IC 35-38-1-7.5.

(g) If the court or parole board grants a waiver under subsection (f), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

~~(f)~~ **(h) The address of the victim of the offender's sex offense is confidential even if the court or parole board grants a waiver under subsection (f).**

SECTION 27. IC 35-38-2-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.6. **(a) As a condition of remaining on probation or parole after a conviction for stalking (IC 35-45-10-5), a court may prohibit a person from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.**

(b) A person:

- (1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the person intends to reside during the period of probation:**

- (A) at the time of sentencing if the person will be placed on probation without first being incarcerated; or**
- (B) before the person's release from incarceration if the person will be placed on probation after completing a term of incarceration; or**

- (2) who will be placed on parole shall provide the parole board with the address where the person intends to reside during the period of parole.**

(c) A person, while on probation or parole, may not reside within one thousand (1,000) feet of the residence of the victim of the stalking unless the person first obtains a waiver under subsection (d) from the:

- (1) court, if the person is placed on probation; or**
- (2) parole board, if the person is placed on parole.**

(d) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the person is present and of which the prosecuting attorney has been notified, determines that:

- (1) the person is in compliance with all terms of the person's probation or parole; and**
- (2) good cause exists to allow the person to reside within one thousand (1,000) feet of the residence of the victim of the stalking.**

(e) If the court or parole board grants a waiver under subsection (d), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(f) The address of the victim of the stalking is confidential even if the court or parole board grants a waiver under subsection (d).

SECTION 28. IC 35-38-2.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. An order for home detention of an offender under section 5 of this chapter must include the following:

- (1) A requirement that the offender be confined to the offender's home at all times except when the offender is:
 - (A) working at employment approved by the court or traveling to or from approved employment;
 - (B) unemployed and seeking employment approved for the offender by the court;
 - (C) undergoing medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the offender by the court;
 - (D) attending an educational institution or a program approved for the offender by the court;
 - (E) attending a regularly scheduled religious service at a place of worship; or
 - (F) participating in a community work release or community restitution or service program approved for the offender by the court.
- (2) Notice to the offender that violation of the order for home detention may subject the offender to prosecution for the crime of escape under IC 35-44-3-5.
- (3) A requirement that the offender abide by a schedule prepared by the probation department, or by a community corrections program ordered to provide supervision of the offender's home detention, specifically setting forth the times when the offender may be absent from the offender's home and the locations the offender is allowed to be during the scheduled absences.
- (4) A requirement that the offender is not to commit another crime during the period of home detention ordered by the court.
- (5) A requirement that the offender obtain approval from the probation department or from a community corrections program ordered to provide supervision of the offender's home detention before the offender changes residence or the schedule described in subdivision (3).
- (6) A requirement that the offender maintain:
 - (A) a working telephone in the offender's home; and
 - (B) if ordered by the court, a monitoring device in the

offender's home or on the offender's person, or both.

(7) A requirement that the offender pay a home detention fee set by the court in addition to the probation user's fee required under IC 35-38-2-1 or IC 31-40. However, the fee set under this subdivision may not exceed the maximum fee specified by the department of correction under IC 11-12-2-12.

(8) A requirement that the offender abide by other conditions of probation set by the court under IC 35-38-2-2.3.

(9) A requirement that an offender:

- (1) convicted of an offense described in IC 10-13-6-10;**
- (2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and**
- (3) whose sentence does not involve a commitment to the department of correction;**

provide a DNA sample.

SECTION 29. IC 35-38-2.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The court may, at the time of sentencing, suspend the sentence and order a person to be placed in a community corrections program as an alternative to commitment to the department of correction. The court may impose reasonable terms on the placement. **A court shall require a person:**

- (1) convicted of an offense described in IC 10-13-6-10;**
- (2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and**
- (3) whose sentence does not involve a commitment to the department of correction;**

to provide a DNA sample as a term of placement.

(b) Placement in a community corrections program under this chapter is subject to the availability of residential beds or home detention units in a community corrections program.

(c) A person placed under this chapter is responsible for the person's own medical care while in the placement program.

(d) Placement under this chapter is subject to the community corrections program receiving a written presentence report or memorandum from a county probation agency.

SECTION 30. IC 35-41-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is commenced:

- (1) within five (5) years after the commission of the offense, in the case of a Class B, Class C, or Class D felony; or
- (2) within two (2) years after the commission of the offense, in the case of a misdemeanor.

(b) A prosecution for a Class B or Class C felony that would otherwise be barred under this section may be commenced within one (1) year after the earlier of the date on which the state:

- (1) first discovers ~~the identity of evidence sufficient to charge~~ the offender with ~~the offense through~~ DNA (deoxyribonucleic acid) ~~evidence~~; ~~analysis~~; or
- (2) could have discovered ~~the identity of evidence sufficient to charge~~ the offender with ~~the offense through~~ DNA (deoxyribonucleic acid) ~~evidence analysis~~ by the exercise of due diligence.

~~However, for a Class B or Class C felony in which the state first discovered the identity of an offender with DNA (deoxyribonucleic~~

acid) evidence after the time otherwise allowed for prosecution and before July 1, 2001, the one (1) year period provided in this subsection is extended to July 1, 2002.

(c) A prosecution for a Class A felony may be commenced at any time.

(d) A prosecution for murder may be commenced:

- (1) at any time; and
- (2) regardless of the amount of time that passes between:
 - (A) the date a person allegedly commits the elements of murder; and
 - (B) the date the alleged victim of the murder dies.

(e) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:

- (1) IC 35-42-4-3(a) (Child molesting).
- (2) IC 35-42-4-5 (Vicarious sexual gratification).
- (3) IC 35-42-4-6 (Child solicitation).
- (4) IC 35-42-4-7 (Child seduction).
- (5) IC 35-46-1-3 (Incest).

(f) A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

(g) If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.

(h) The period within which a prosecution must be commenced does not include any period in which:

- (1) the accused person is not usually and publicly resident in Indiana or so conceals himself ~~or herself~~ that process cannot be served; ~~on him;~~
- (2) the accused person conceals evidence of the offense, and evidence sufficient to charge ~~him~~ **the person** with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or
- (3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

(i) For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:

- (1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.
- (2) The date of issuance of a valid arrest warrant.
- (3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

(j) A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.

SECTION 31. IC 35-42-4-10 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2006]: **Sec. 10. (a) As used in this section,**

"sexually violent predator" means a person who is a sexually violent predator under IC 35-38-1-7.5.

(b) A sexually violent predator who knowingly or intentionally works for compensation or as a volunteer:

- (1) on school property;**
- (2) at a youth program center; or**
- (3) at a public park;**

commits unlawful employment near children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under this chapter.

SECTION 32. IC 35-42-4-11, AS ADDED BY SEA 246-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) As used in this section, "offender against children" means a person required to register as ~~an~~ **a sex offender under IC 5-2-12 IC 11-8-8** who has been:

- (1) found ~~by a court~~ to be a sexually violent predator under ~~(A) IC 35-38-1-7.5; or~~
~~(B) the law of another jurisdiction that identifies the person as being likely to repeatedly commit a sex offense; or~~
- (2) convicted of one (1) or more of the following offenses:
 - (A) Child molesting (IC 35-42-4-3).
 - (B) Child exploitation (IC 35-42-4-4(b)).
 - (C) Child solicitation (IC 35-42-4-6).
 - (D) Child seduction (IC 35-42-4-7).
 - (E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.
 - (F) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (E).

(b) As used in this section, "reside" means to spend more than two (2) nights in a residence in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

- (1) resides within one thousand (1,000) feet of:
 - (A) school property;
 - (B) a youth program center; or
 - (C) a public park; or
- (2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits a sex offender residency offense, a Class D felony.

SECTION 33. IC 35-43-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person who:

- (1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or
- (2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

- (A) a Class A misdemeanor if:
 - (i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars

- (\$2,500);
- (ii) the property damaged was a moving motor vehicle;
- (iii) the property damaged ~~or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3)~~ **contained data relating to a person required to register as a sex offender under IC 11-8-8** and the person is not a sex offender or was not required to register as a sex offender;
- (iv) the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way;
- (v) the property damaged was a part of any railroad signal system, train control system, centralized dispatching system, or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company;
- (vi) the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company; or
- (vii) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

- (i) the pecuniary loss is at least two thousand five hundred dollars (\$2,500);
- (ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;
- (iii) the damage is to a public record;
- (iv) the property damaged ~~or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3)~~ **contained data relating to a person required to register as a sex offender under IC 11-8-8** and the person is a sex offender or was required to register as a sex offender;
- (v) the damage causes substantial interruption or impairment of work conducted in a scientific research facility;
- (vi) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); or
- (vii) the damage causes substantial interruption or impairment of work conducted in a food processing facility.

(b) A person who recklessly, knowingly, or intentionally damages:

- (1) a structure used for religious worship;
- (2) a school or community center;
- (3) the grounds:
 - (A) adjacent to; and
 - (B) owned or rented in common with;

a structure or facility identified in subdivision (1) or (2); or

- (4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500), and a Class C felony if

the pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

- (1) the person has removed or painted over the graffiti or has made other suitable restitution; and
- (2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 34. IC 35-44-3-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13. (a) A person who is being supervised on lifetime parole (as described in IC 35-50-6-1) and who knowingly or intentionally violates a condition of lifetime parole that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a sex crime described in IC 11-8-8-5 that was committed by the person commits a Class D felony if, at the time of the violation:**

- (1) the person's lifetime parole has been revoked two (2) or more times; or**
- (2) the person has completed the person's sentence, including any credit time the person may have earned.**

(b) The offense described in subsection (a) is a Class C felony if the person has a prior unrelated conviction under this section.

SECTION 35. IC 35-49-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3. (a) Except as provided in subsection (b), a person who knowingly or intentionally:**

- (1) disseminates matter to minors that is harmful to minors;**
- (2) displays matter that is harmful to minors in an area to which minors have visual, auditory, or physical access, unless each minor is accompanied by the minor's parent or guardian;**
- (3) sells, rents, or displays for sale or rent to any person matter that is harmful to minors within five hundred (500) feet of the nearest property line of a school or church;**
- (4) engages in or conducts a performance before minors that is harmful to minors;**
- (5) engages in or conducts a performance that is harmful to minors in an area to which minors have visual, auditory, or physical access, CCunless each minor is accompanied by the minor's parent or guardian;**
- (6) misrepresents the minor's age for the purpose of obtaining admission to an area from which minors are restricted because of the display of matter or a performance that is harmful to minors; or**
- (7) misrepresents that the person is a parent or guardian of a minor for the purpose of obtaining admission of the minor to an**

area where minors are being restricted because of display of matter or performance that is harmful to minors; commits a Class D felony.

(b) This section does not apply if a person disseminates, displays, or makes available the matter described in subsection (a) through the Internet, computer electronic transfer, or a computer network unless:

- (1) the matter is obscene under IC 35-49-2-1;
- (2) the matter is child pornography under IC 35-42-4-4; or
- (3) the person distributes the matter to a child less than eighteen (18) years of age believing or intending that the recipient is a child less than eighteen (18) years of age.

SECTION 36. IC 35-50-2-2, AS AMENDED BY P.L.213-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3-7:

- (1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.
- (2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.
- (3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.
- (4) The felony committed was:
 - (A) murder (IC 35-42-1-1);
 - (B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;
 - (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
 - (D) kidnapping (IC 35-42-3-2);
 - (E) confinement (IC 35-42-3-3) with a deadly weapon;
 - (F) rape (IC 35-42-4-1) as a Class A felony;
 - (G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;
 - (H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;
 - (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
 - (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
 - (K) burglary (IC 35-43-2-1) resulting in serious bodily injury

or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

(R) an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death); or

(S) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of ~~an~~ a sex offender's (as defined in ~~IC 5-2-12-4~~ IC 11-8-8-5) sentence that is suspendible under subsection (b), the court shall place the sex offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 37. IC 35-50-2-14, AS AMENDED BY P.L.71-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The state may seek to have a person sentenced as a repeat sexual offender for a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3**, by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated one (1) prior unrelated felony conviction for a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3**.

(b) After a person has been convicted and sentenced for a felony committed after sentencing for a prior unrelated felony conviction under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3**, the person has accumulated one (1) prior unrelated felony conviction. However, a conviction does not count for purposes of this subsection, if:

- (1) it has been set aside; or
- (2) it is one for which the person has been pardoned.

(c) If the person was convicted of the offense in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(d) A person is a repeat sexual offender if the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had accumulated one (1) prior unrelated felony conviction under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or had accumulated one (1) prior unrelated conviction for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3**.

(e) The court may sentence a person found to be a repeat sexual offender to an additional fixed term that is the advisory sentence for the underlying offense. However, the additional sentence may not exceed ten (10) years.

SECTION 38. IC 35-50-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as provided in subsection (d) **or (e)**, when a person imprisoned for a felony completes ~~his the person's~~ fixed term of imprisonment, less the credit time ~~he the person~~ has earned with respect to that term, ~~he the person~~ shall be:

- (1) released on parole for not more than twenty-four (24) months, as determined by the parole board;
 - (2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or
 - (3) released to the committing court if ~~his the~~ sentence included a period of probation.
- (b) ~~Except as provided in subsection (d),~~ **This subsection does not**

apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of ~~his~~ release until ~~his the person's~~ fixed term expires, unless ~~his the person's~~ parole is revoked or ~~he the person~~ is discharged from that term by the parole board. In any event, if ~~his the person's~~ parole is not revoked, the parole board shall discharge ~~him the person~~ after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for **all or part of** the remainder of ~~his the person's~~ fixed term. However, ~~he the person~~ shall again be released on parole when ~~he the person~~ completes that remainder, less the credit time ~~he the person~~ has earned since the revocation. The parole board may reinstate ~~him the person~~ on parole at any time after the revocation.

(d) **This subsection does not apply to a person who is a sexually violent predator under IC 35-38-1-7.5.** When ~~an offender a sex offender~~ (as defined in ~~IC 5-2-12-4~~ IC 11-8-8-5) completes the sex offender's fixed term of imprisonment, less credit time earned with respect to that term, the sex offender shall be placed on parole for not more than ten (10) years.

(e) **This subsection applies to a person who is a sexually violent predator under IC 35-38-1-7.5.** When a sexually violent predator completes the person's fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remainder of the person's life.

(f) **This subsection applies to a parolee in another jurisdiction who is a sexually violent predator under IC 35-38-1-7.5 and whose parole supervision is transferred to Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee who is a sexually violent predator and whose parole supervision is transferred to Indiana is subject to the same conditions of parole as a sexually violent predator convicted in Indiana, including:**

- (1) lifetime parole (as described in subsection (e)); and
- (2) the requirement that the person wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, if applicable.

(g) **If a person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole board may:**

- (1) supervise the person while the person is being supervised by the other supervising agency; or
- (2) permit the other supervising agency to exercise all or part of the parole board's supervisory responsibility during the period in which the other supervising agency is required to supervise the person, if supervision by the other supervising agency will be, in the opinion of the parole board:
 - (A) at least as stringent; and
 - (B) at least as effective;

as supervision by the parole board.

(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person's release from imprisonment, the parole board shall recommence its supervision of a person on lifetime parole.

SECTION 39. IC 35-50-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time ~~he~~ **the person** has earned for any of the following:

- (1) A violation of one (1) or more rules of the department of correction.
- (2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.
- (3) A violation of one (1) or more rules or conditions of a community transition program.
- (4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.
- (5) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to register before being released from the department as required under IC 11-8-8-7.**
- (6) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction.**

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, he may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine ~~his~~ **the person's** guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive ~~his~~ **the person's** right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

SECTION 40. IC 36-2-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain ~~a~~ **an Indiana** sex offender web site, known as the Indiana ~~sheriffs'~~ sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least ~~every seven (7) days~~ **daily**.

(b) The **Indiana** sex offender web site must include the following information:

- (1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.
- (2) The home address of every sex offender.
- (3) The information required ~~to be included in the sex offender~~

~~directory (IC 5-2-12-6).~~ **under IC 11-8-8-8.**

(c) Every time a sex offender ~~submits a new registration form to the sheriff registers~~, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the **Indiana** sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

- (1) The photograph must be full face, front view, with a plain white or off-white background.
- (2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.
- (3) The photograph must be in color.
- (4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.
- (5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.
- (6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the **Indiana** sex offender web site.

(e) The **Indiana** sex offender web site may be funded from:

- (1) the jail commissary fund (IC 36-8-10-21);
- (2) a grant from the criminal justice institute; and
- (3) any other source, subject to the approval of the county fiscal body.

SECTION 41. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 5-2-6-3.5; IC 5-2-12.

SECTION 42. [EFFECTIVE JULY 1, 2006] **IC 11-8-8-15, IC 11-8-8-17, IC 11-8-8-18, IC 35-42-4-10, and IC 35-44-3-13, all as added by this act, and IC 35-43-1-2, IC 35-42-4-11, and IC 35-49-3-3, all as amended by this act, apply only to crimes committed after June 30, 2006.**

SECTION 43. [EFFECTIVE JULY 1, 2006] **Notwithstanding IC 10-13-6-10, IC 10-13-6-11, IC 35-38-2-2.3, IC 35-38-2.5-6, and IC 35-38-2.6-3, all as amended by this act, and IC 35-38-1-27, as added by this act, a probation department, community corrections department, or other agency supervising an offender on conditional release is not required to collect a DNA sample before October 1, 2006. However, a probation department, community corrections department, or other agency supervising an offender on conditional release is authorized to collect a DNA sample before October 1, 2006, and a DNA sample collected before October 1, 2006, may be analyzed and placed in the convicted offender data base.**

SECTION 44. [EFFECTIVE JULY 1, 2006] **IC 35-38-2-2.6 and IC 35-50-6-1, both as added by this act, apply only to crimes committed after June 30, 2006.**

SECTION 45. [EFFECTIVE UPON PASSAGE] **(a) The department of correction shall report to the budget committee on**

or before August 1, 2006, concerning the estimated costs of implementing IC 11-13-3-4(i), as added by this act, and the feasibility of recovering those costs from offenders.

(b) This SECTION expires July 1, 2007.

SECTION 46. [EFFECTIVE JULY 1, 2006] (a) The department of correction shall report to the legislative council before November 1 of each year concerning the department's implementation of lifetime parole and GPS monitoring for sex offenders. The report must include information relating to:

- (1) the expense of lifetime parole and GPS monitoring;
- (2) recidivism; and
- (3) any proposal to make the program of lifetime parole and GPS monitoring less expensive or more effective, or both.

(b) The report described in subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires November 2, 2010.

SECTION 47. P.L.61-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 1. (a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c).

(b) The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:

- (1) ensure that sentencing laws and policies protect the public safety;
- (2) establish fairness and uniformity in sentencing laws and policies;
- (3) determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and
- (4) maximize cost effectiveness in the administration of sentencing laws and policies.

(c) The sentencing policy study committee is established to evaluate sentencing laws and policies as they relate to:

- (1) the purposes of the criminal justice and corrections systems;
- (2) the availability of sentencing options; and
- (3) the inmate population in department of correction facilities.

If, based on the committee's evaluation under this subsection, the committee determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(d) The committee shall do the following:

- (1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:
 - (A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.
 - (B) The deterrent effect a particular classification may have on the commission of the offense.
 - (C) The current incidence of the offense in Indiana.
 - (D) The rights of the victim.
- (2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a

criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The committee shall also consider the following:

- (A) The nature and characteristics of the offense.
- (B) The severity of the offense in relation to other offenses.
- (C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.
- (D) The defendant's number of prior convictions.
- (E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.
- (F) The rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs for the purpose of:

- (A) standardizing procedures and establishing rules for the supervision of home detainees; and
- (B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.

(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(7) Recommend a comprehensive community corrections strategy based on the following:

- (A) A review of existing community corrections programs.
- (B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.
- (C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.
- (D) The identification of necessary changes in state oversight and coordination of community corrections programs.
- (E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs.
- (F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.

(8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.

(9) Evaluate the use of faith based organizations as an alternative to incarceration.

(10) Study issues related to sex offenders, including:

- (A) lifetime parole;**
- (B) GPS or other electronic monitoring;**
- (C) a classification system for sex offenders;**
- (D) recidivism; and**
- (E) treatment.**

(e) The committee may study other topics assigned by the legislative council or as directed by the committee chair. **The committee may meet as often as necessary.**

(f) The committee consists of ~~nineteen (19)~~ **twenty (20)** members appointed as follows:

- (1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.
- (2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.
- (3) The chief justice of the supreme court or the chief justice's designee.
- (4) The commissioner of the department of correction or the commissioner's designee.
- (5) The director of the Indiana criminal justice institute or the director's designee.
- (6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.
- (7) The executive director of the public defender council of Indiana or the executive director's designee.
- (8) One (1) person with experience in administering community corrections programs, appointed by the governor.
- (9) One (1) person with experience in administering probation programs, appointed by the governor.
- (10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.
- (11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.
- (12) One (1) board certified psychologist or psychiatrist who has expertise in treating sex offenders, appointed by the governor to act as a nonvoting advisor to the committee.**

(g) The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the committee and appoint another chair.

(h) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

(i) A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

(j) If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

(k) The committee shall submit a final report of the results of its study to the legislative council before November 1, 2006. The report must be in an electronic format under IC 5-14-6.

(l) The Indiana criminal justice institute shall provide staff support to the committee.

(m) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

(n) The affirmative votes of a majority of the **voting** members appointed to the committee are required for the committee to take action on any measure, including the final report.

(o) Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this act shall be paid from appropriations to the legislative council and legislative services agency.

(p) This SECTION expires December 31, 2006.

SECTION 48. An emergency is declared for this act.

(Reference is to ESB 12 as reprinted February 24, 2006.)

Long, Chair	Ulmer
Mrvan	Kuzman
Senate Conferees	House Conferees

Roll Call 364: yeas 50, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1353-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1353 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 24-2-1-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 0.5. This chapter is intended to provide a system of state trademark registration and protection that is consistent with the federal system of trademark registration and protection under the Trademark Act of 1946. A judicial or an administrative interpretation of a provision of the federal Trademark Act may be considered as persuasive authority in construing a provision of this chapter.

SECTION 2. IC 24-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter: The following definitions apply throughout this chapter:

(1) "Abandoned" means either of the following:

- (A) The person who owns the mark has discontinued use of the mark and does not intend to resume use of the mark. A person's intent not to resume use of the mark may be inferred from the circumstances. Three (3) consecutive years without use of a mark constitutes prima facie evidence that the use of the mark has been**

abandoned.

(B) The conduct of the owner, including an act or omission, has caused the mark to lose its significance as a mark.

(2) "Applicant" means a person who files an application for registration of a mark under this chapter and the legal representatives, successors, or assigns of the person.

(3) "Dilution" means the lessening of the capacity of a famous mark to identify and distinguish goods or services, regardless of the presence or absence of:

(A) competition between the owner of the famous mark and other parties; or

(B) the likelihood of confusion, mistake, or deception.

(4) "Mark" means a trademark or service mark that is entitled to registration under this chapter, whether the mark is registered or not.

(5) "Person" means:

(A) a human being;

(B) a corporation;

(C) a partnership;

(D) a limited liability company; or

(E) any other entity or organization:

(i) capable of suing and being sued in a court of law;

(ii) entitled to a benefit or privilege under this chapter; or

(iii) rendered liable under this chapter.

(6) "Registrant" means a person to whom the registration of a mark under this chapter is issued and the legal representatives, successors, or assigns of the person.

(7) "Secretary" means the secretary of state or the designee of the secretary charged with the administration of this chapter.

(8) "Service mark" means a word, name, symbol, device, or combination of a word, name, symbol, or device that is used by a person to:

(A) identify a service, including a unique service, of a person and distinguish the person's service from the service of another person; and

(B) indicate the source of a service, even if the source is unknown.

Titles and character names and other distinctive features of radio or television programs used by a person may be registered as a service mark even though the radio or television programs may advertise the goods of the sponsor.

~~(a) The term~~ (9) "Trademark" means any word, name, symbol, or device or any combination thereof adopted and of a word, name, symbol, or device that is used by a person to:

(A) identify goods or services made, sold, or rendered by him and to distinguish them from goods or services made, sold, or rendered by others; and distinguish goods, including a unique product, of a person and distinguish the person's goods from goods manufactured or sold by another person; and

(B) indicate the source of the goods, even if the source is unknown.

~~(b) The term "person" means any individual, firm, partnership, corporation, limited liability company, association, union of workmen, or other organization.~~

~~(c) The term "applicant" embraces the person filing an application for registration of a trademark under this chapter, his legal representatives, successors, or assigns.~~

~~(d) The term "registrant" embraces the person to whom the registration of a trademark under this chapter is issued, his legal representatives, successors, or assigns.~~

~~(e) For the purposes of this chapter, a trademark shall be deemed to be "used" in this state when it is placed in any manner on the goods or their containers or on the tags or labels affixed thereto; or when it is used to identify the services of one person and distinguish them from the services of others, and such goods or services are sold, otherwise distributed, or rendered in this state.~~

(10) "Trade name" means a name used by a person to identify a business or vocation of the person.

(11) "Use" means the bona fide use of a mark in the ordinary course of trade and not a use made merely to reserve a right in a mark. A mark is considered to be in use:

(A) on or in connection with a good if the:

(i) mark is placed in any manner on the good, a container for the good, a display associated with the good, or a tag or label affixed to the good; or

(ii) nature of the good makes placement of the mark as described in item (i) impracticable and the mark is placed on a document associated with the good or with the sale of the good; and

(B) if the good described in clause (A) is sold or transported in Indiana.

A mark is considered to be in use on or in connection with a service if the mark is used or displayed in the sale or advertising of the service and the service is rendered in Indiana.

SECTION 3. IC 24-2-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. A trademark mark by which the goods or services of any an applicant for registration may be distinguished from the other goods or services of others shall may not be registered if it the mark:

~~(a)~~ (1) consists of or comprises immoral, deceptive, or scandalous matter;

~~(b)~~ (2) consists of or comprises matter which that may:

(A) disparage or falsely suggest a connection with:

(i) persons living or dead;

(ii) institutions;

(iii) beliefs; or

(iv) national symbols; or

(B) bring them into contempt or disrepute:

(i) persons living or dead;

(ii) institutions;

(iii) beliefs; or

(iv) national symbols;

~~(c)~~ (3) consists of or comprises the flag, or coat of arms, or other insignia of:

- (A) the United States;
- (B) ~~or of any~~ a state or municipality;
- (C) ~~or of~~ the United Nations; or
- (D) ~~of any~~ a foreign nation; ~~or any simulation thereof;~~
- ~~(d)~~ (4) consists of or comprises the name, signature, or portrait ~~of any identifying a particular~~ living individual, ~~except with his unless the individual provides~~ written consent; or
- ~~(e)~~ consists of (5) is a mark which that:
 - (1) when applied to (A) if used on or in connection with the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of ~~them~~ the goods or services;
 - (2) when applied to (B) if used on or in connection with the goods or services of the applicant, is primarily geographically descriptive or deceptively geographically misdescriptive of ~~them~~ the goods or services; or
 - (3) (C) is primarily merely a surname.

Provided, however, that nothing in This subdivision shall does not prevent the registration of a mark that is used in this state Indiana by the applicant which and has become distinctive of the applicant's goods or services. The secretary of state may accept proof of continuous use of a mark by the applicant in Indiana for the five (5) years immediately preceding the date on which the claim of distinctiveness is made as evidence that the mark has become distinctive, as applied to used on or in connection with the applicant's goods or services; proof of substantially exclusive and continuous use thereof as a mark by the applicant in this state or elsewhere for the five (5) years next preceding the date of the filing of the application for registration; or

~~(f)~~ consists of or comprises (6) is a trademark mark which that so resembles a trademark mark registered in this state Indiana or deemed registered in this state; as provided for by section 16 of this chapter; a mark or trade name previously used by another person in Indiana and not abandoned, as to be likely, when applied to if used on or in connection with the goods or services of the applicant, to cause deception, confusion, or mistake. ~~or to deceive. unless there shall be filed with the secretary of state the written consent of the registrant of such trademark; signed and verified under oath by the registrant or one (1) of its officers or partners.~~

SECTION 4. IC 24-2-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Subject to the limitations set forth in of this chapter, any a person who adopts and uses a trademark in this state mark in Indiana may file in the office of the secretary, of state; on a form to be furnished by the secretary of state; in a manner that complies with the requirements of the secretary, an application for registration of that trademark setting the mark. The application must forth; but not limited to; include the following information:

- ~~(a)~~ (1) The name and business address of the person applying for such registration of the mark, and:
 - (A) if the applicant is a corporation, the state of incorporation;
 - (B) if the applicant is a partnership, the:

- (i) state in which the partnership is organized; and
- (ii) names of the general partners, as specified by the secretary; or
- (C) if the applicant is another form of legal entity, the jurisdiction in which the legal entity was organized.
- ~~(b)~~ (2) The:
 - (A) goods or services on or in connection with which the mark is used; in connection with which the mark; is used; and the
 - (B) mode or manner in which the mark is used on or in connection with such the goods or services; and the
 - (C) class in which such the goods or services fall.
- ~~(c)~~ (3) The date when on which the trademark mark was first used in the United States anywhere and the date of its on which the mark was first use used in this state Indiana by the applicant or his the applicant's predecessor in business.
- ~~(d)~~ (4) A statement that:
 - (A) that the applicant is the owner of the trademark mark;
 - (B) the mark is in use; and that no other
 - (C) to the knowledge of the person verifying the application, another person: has
 - (i) has not registered the mark, either federally or in Indiana; or
 - (ii) does not have the right to use such trademark in this state the mark either in the identical form thereof or in such near resemblance thereto to the form as might be calculated to deceive or to be mistaken therefor; however, this statement shall not be required if written consent is obtained in the manner provided for in section 3(f) of this chapter: to be likely, if applied to the goods or services of the other person, to cause deception, confusion, or mistake.
- (b) The secretary may also require on an application:
 - (1) a statement indicating whether an application to register a mark, parts of a mark, or a composite of a mark, has been filed by the applicant or a predecessor in the interest of the applicant in the United States Patent and Trademark Office. If an application has previously been filed in the United States Patent and Trademark Office, the applicant must provide full particulars with respect to the previous application, including the:
 - (A) filing date and serial number of each application;
 - (B) status of each application; and
 - (C) reason or reasons for the refusal of the application or the nonregistration of the mark if an application to register the mark was finally refused registration or if an application to register the mark has not resulted in a registration; and
 - (2) a drawing of the mark that complies with the requirements of the secretary.
- (c) The application shall must be signed and verified under oath, affirmation, or declaration subject to perjury laws by:
 - (1) the applicant; or by
 - (2) a member of the applicant firm or applicant limited liability company; or

(3) an officer of the **applicant** corporation, ~~or~~ association, ~~applying or other form of legal entity.~~

The application ~~shall~~ **must** be accompanied by three (3) specimens ~~or~~ facsimiles of such trademark and shall contain a brief description of such trademark as it appears on such specimens or facsimiles: **showing actual use of the mark.** The application for registration ~~shall~~ **must** be accompanied by a ~~filing fee of ten dollars (\$10)~~ **an application fee payable to the secretary.** ~~of state.~~

SECTION 5. IC 24-2-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.5. (a) If a person files an application for registration of a mark and pays the application fee, the secretary may examine the application for conformity with this chapter.

(b) An applicant must provide additional information requested by the secretary, including a description of a design mark.

(c) An applicant may make or authorize the secretary to make reasonable amendments to an application that are requested by the secretary or are considered by the applicant to be advisable to respond to a rejection or an objection.

(d) The secretary may require an applicant to submit a new application if the secretary determines amendments to the application are necessary and the applicant does not make or authorize the secretary to make amendments under subsection (c).

(e) The secretary may require an applicant to disclaim a component of a mark that is not eligible for registration, and an applicant may voluntarily disclaim a component of a mark for which registration is sought. A disclaimer does not prejudice or affect the applicant's rights:

- (1) existing at the time of application or arising after the application in the disclaimed matter; or
- (2) on another application if the disclaimed matter is or becomes distinctive of the applicant's goods or services.

(f) If an applicant is not entitled to registration of a mark under this chapter, the secretary shall advise the applicant of the reason the applicant is not entitled to registration of the mark. The applicant has a reasonable time specified by the secretary:

- (1) to reply to the reason the applicant is not entitled to registration; or
- (2) to amend the application.

If the applicant replies to the secretary or amends the application within the reasonable time, the secretary shall reexamine the application.

(g) The procedure under subsection (f) may be repeated until:

- (1) the secretary finally refuses registration of the mark; or
- (2) the applicant fails to reply or amend the application within the time specified by the secretary, at which time the secretary shall consider the application to have been withdrawn.

(h) If the secretary issues a final order refusing the registration of a mark, an applicant may bring a civil action in a court with jurisdiction to compel the registration of the mark. A court may order the secretary to register a mark, without costs to the

secretary, on proof that all statements in the application are true and the mark is entitled to registration.

(i) If two (2) or more applications are concurrently processed by the secretary for registration of the same or confusingly similar marks for the same or related goods or services, the secretary shall grant priority to the applications in order of filing. If a previously filed application is granted a registration, the other application or applications must be rejected. A rejected applicant may bring an action for cancellation of the previously registered mark based upon previous or superior rights to the mark under section 10 of this chapter.

SECTION 6. IC 24-2-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) ~~Upon compliance by the~~ **If an applicant complies** with the requirements of this chapter, the secretary ~~of state~~ shall ~~cause issue and deliver~~ a certificate of registration ~~to be issued and delivered~~ to the applicant. The certificate of registration ~~shall~~ **must** be issued under the signature of the secretary ~~of state~~ and the seal of the state of Indiana. ~~and it shall show~~ **The certificate of registration must include all of the following:**

(1) The name and business address ~~and, if of the person claiming ownership of the mark.~~ **If the person claiming ownership of the mark is:**

(A) a corporation, ~~the certificate of registration must show the state of incorporation; of the person claiming ownership of the trademark;~~

(B) a partnership, the certificate of registration must show the state in which the partnership is organized and the names of the general partners, as specified by the secretary; or

(C) another form of legal entity, the certificate of registration must show the jurisdiction in which the legal entity is organized.

(2) The date claimed for the first use of the trademark ~~in the United States and this state;~~ **mark anywhere and the date claimed for the first use of the mark in Indiana.**

(3) The class of goods or services and a description of the goods or services on ~~or in connection with~~ **which the trademark mark** is used.

(4) **A reproduction of the mark.**

(5) The registration date. ~~and~~

(6) The term of the registration. ~~One (1) specimen or facsimile of the trademark supplied under section 4 of this chapter shall be attached to and made a part of the certificate of registration.~~

(b) ~~Any~~ **A** certificate of registration issued by the secretary ~~of state~~ under the provisions of subsection (a) or a copy thereof ~~duly of a certificate of registration~~ certified by the secretary ~~of state~~ shall be admissible in evidence as competent and sufficient proof of the registration of ~~such trademark~~ **the mark** in ~~any an~~ action or judicial proceedings ~~proceeding in any a court of this state.~~ **Indiana.**

SECTION 7. IC 24-2-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) ~~Registration of a trade-mark hereunder shall be~~ **mark under this chapter is effective** for a term of ~~ten (10)~~ **five (5)** years from the date of registration. ~~and~~

upon

(b) If a person who registers a mark under subsection (a) files an application filed within not more than six (6) months prior to before the expiration of such the five (5) year term, on a form to be furnished by the secretary of state, in a manner complying with the requirements of the secretary, the registration may be renewed for a like term an additional five (5) year term commencing at the end of the expiring five (5) year term.

(c) A renewal fee of ten dollars (\$10.00), payable to the secretary of state, shall must accompany the application for renewal of the registration.

(d) A trade-mark registration may be renewed for successive periods of ten (10) five (5) years in like the manner described in subsection (b).

(e) The secretary of state shall notify the registrants of trade-marks marks of the necessity of renewal within the year next preceding the expiration of the ten (10) five (5) years from the date of the registration by writing to the last known address of the registrants.

(f) An application for renewal under this chapter for a mark registered under this chapter or a mark registered under a prior law, must include:

- (1) a verified statement that the mark has been and remains in use; and
- (2) a specimen showing actual use of the mark on or in connection with the good or service.

SECTION 8. IC 24-2-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. Any A registration in force on March 8, 1955, shall expire March 8, 1956, unless July 1, 2006, continues in full force and effect for the unexpired term of the registration and may be renewed by:

- (1) filing an application for renewal with the secretary; of state on a form furnished by him and
- (2) paying the renewal fee;

described in the manner described in section 6 of this chapter within not more than six (6) months prior to before the expiration of the registration.

SECTION 9. IC 24-2-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. Any trademark (a) A mark and the registration of a mark under this chapter shall be are assignable with the:

- (1) good will of the business in which the trademark mark is used; or with that
- (2) part of the good will of the business:
 - (A) connected with the use of the mark; and
 - (B) symbolized by the trademark. Assignment shall mark.

(b) An assignment:

- (1) must be made by an instrument in writing duly executed; and
- (2) shall may be recorded with the secretary of state upon the payment of a recording fee of ten dollars (\$10) payable to the secretary. of state who, upon recording of the assignment,

(c) The secretary, after recording an assignment, shall issue in the name of the assignee a new certificate of registration for the remainder of the term of the:

(1) registration; or of the last

(2) most recent renewal thereof of the registration.

(d) An assignment of any a registration under this chapter shall be is void as against any a subsequent purchaser for valuable consideration without notice unless it the assignment is recorded with the secretary of state, not more than three (3) months:

- (1) after the date of the assignment; or
- (2) before the subsequent purchase.

SECTION 10. IC 24-2-1-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8.5. (a) A registrant or an applicant who changes the name of the person to whom the mark is issued or for whom an application is filed may record a certificate of change of name of the registrant or applicant with the secretary upon the payment of a recording fee.

(b) The secretary may issue a new certificate of registration or an assigned application in the name of the assignee. The secretary may issue a new certificate of registration in the name of the assignee for the remainder of the term of the:

- (1) certificate of registration; or
- (2) most recent renewal of the certificate of registration.

SECTION 11. IC 24-2-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. The secretary of state shall keep for public examination a record of all trademarks marks registered or renewed under this chapter as well as a record of all instruments recorded under sections 8 and 8.5 of this chapter.

SECTION 12. IC 24-2-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. The secretary of state shall cancel from the register in whole or in part:

- (1) after March 8, 1956, all registrations under prior statutes which have not been renewed in accordance with this chapter;
- (2) any (1) a registration concerning for which the secretary of state shall receive receives a voluntary request for cancellation thereof from the registrant or the assignee of record;
- (3) (2) all registrations granted under this chapter and not renewed in accordance with the provisions under section 6 of this chapter;
- (4) any (3) a registration concerning for which a court of competent jurisdiction shall find: finds that:

- (A) that the registered trademark mark has been abandoned;
- (B) that the registrant is not the owner of the trademark; mark;
- (C) that the registration was granted improperly; or
- (D) that the registration was obtained fraudulently; and
- (E) the registered mark is or has become the generic name for the good or the service, or a part of the good or the service, for which the mark was registered; or
- (F) the registered mark is so similar to a mark registered by another person on the principal register in the United States Patent and Trademark Office as to be likely to cause deception, confusion, or mistake between the marks, and the mark registered in the United States Patent and Trademark Office was filed before the filing of the application for registration by the registrant under

this chapter. However, a mark may not be canceled under this clause if the registrant proves that the registrant is the owner of a concurrent registration of a mark in the United States Patent and Trademark Office covering an area including Indiana; or

(5) when (4) a registration if a court of competent jurisdiction shall order orders cancellation of a the registration on any ground.

SECTION 13. IC 24-2-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The following general classes secretary shall adopt rules under IC 4-22-2 to establish:

(1) a classification of goods and services are established for convenience of administration of this chapter but not to limit or extend the an applicant's or registrant's rights; and

(2) a single application for registration of a trademark mark that:

(A) may include any or all goods or services each good upon or in connection which a mark is used;

(B) may include each service with which the trademark a mark is actually being used; comprised in a single class; but in no event shall a single application include goods or services upon or in connection with which the trademark is being used which fall within different and

(C) must indicate the appropriate class or classes of the goods or services.

To the extent practical, the classification of goods or services should conform to the classification of goods or services adopted by the United States Patent and Trademark Office.

(b) The said classes are as follows:

- (1) Raw or partly prepared materials.
- (2) Receptacles.
- (3) Baggage; animal equipments; portfolio; and pocketbooks.
- (4) Abrasives and polishing materials.
- (5) Adhesives.
- (6) Chemicals and chemical compositions.
- (7) Cordage.
- (8) Smokers' articles; not including tobacco products.
- (9) Explosives; firearms; equipments; and projectiles.
- (10) Fertilizers.
- (11) Inks and inking materials.
- (12) Construction materials.
- (13) Hardware and plumbing and steam-fitting supplies.
- (14) Metals and metal castings and forgings.
- (15) Oils and greases.
- (16) Paints and painters' materials.
- (17) Tobacco products.
- (18) Medicines and pharmaceutical preparations.
- (19) Vehicles.
- (20) Linoleum and oiled cloth.
- (21) Electrical apparatus; machines; and supplies.
- (22) Games; toys; and sporting goods.
- (23) Cutlery; machinery; and tools; and parts thereof.

(24) Laundry appliances and machines.

(25) Locks and safes.

(26) Measuring and scientific appliances.

(27) Horological instruments.

(28) Jewelry and precious-metal ware.

(29) Brooms; brushes; and dusters.

(30) Crockery; earthenware; and porcelain.

(31) Filters and refrigerators.

(32) Furniture and upholstery.

(33) Glassware.

(34) Heating, lighting, and ventilating apparatus.

(35) Belting; hose; machinery packing; and nonmetallic tires.

(36) Musical instruments and supplies.

(37) Paper and stationery.

(38) Prints and publications.

(39) Clothing.

(40) Fancy goods; furnishings; and notions.

(41) Canes; parasols; and umbrellas.

(42) Knitted; netted and textile fabrics; and substitutes thereof.

(43) Thread and yarn.

(44) Dental; medical; and surgical appliances.

(45) Soft drinks and carbonated waters.

(46) Foods and ingredients of foods.

(47) Wines.

(48) Malt beverages and liquors.

(49) Distilled alcoholic liquors.

(50) Cosmetics and toilet preparations.

(51) Detergents and soaps.

(52) Merchandise not otherwise classified.

(53) Miscellaneous.

(54) Advertising and business.

(55) Insurance and financial.

(56) Construction and repair.

(57) Communication.

(58) Transportation and storage.

(59) Material treatment.

(60) Education and entertainment.

(b) If a single application includes goods or services that fall within multiple classes, the secretary may require payment of a fee for each class.

SECTION 14. IC 24-2-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. ~~Any (a)~~ A person who shall for himself or herself, or on behalf of any other person, procure the filing or registration of any trade-mark mark in the office of the secretary of state under the provisions hereof; this chapter by knowingly making any a false or fraudulent representation or declaration orally, in writing, or by any other fraudulent means, shall be is liable to pay for all damages sustained in consequence of such the filing or registration. to be

(b) The damages may be recovered by or on behalf of the injured party injured thereby in any a court of competent jurisdiction.

SECTION 15. IC 24-2-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. Subject to the provisions of section 15 of this chapter, any a person who: shall:

~~(a) use;~~ **(1) uses**, without the consent of the registrant, ~~any a~~ reproduction, counterfeit, copy, or colorable imitation of a ~~trademark mark~~ registered under this chapter:

- (A) in connection with the sale, offering for sale, distribution, or advertising of any goods or services; or**
 - (B) on or in connection with which ~~such the~~ use is likely to cause confusion or mistake, or ~~to deceive as to result in~~ deception regarding the source ~~or of~~ origin of ~~such the~~ goods or services; or**
- ~~(b) reproduce, counterfeit, copy;~~ **(2) reproduces, counterfeits, or copies a mark or colorably imitate any such trademark imitates a mark and apply such applies the** reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used ~~upon or used~~:

- (A) in ~~conjunction~~ connection with the sale or other distribution of the goods or services in this state of such goods or services shall be Indiana; or**
- (B) on the goods or services;**

is liable ~~to in~~ a civil action brought by the owner of such registered ~~trademark~~ registrant for any or all of the remedies provided in section ~~14~~ of this chapter, except that under subdivision ~~(b)~~ **(2)** the registrant ~~shall~~ is not be entitled to recover profits or damages unless the acts have been committed with knowledge that such trademark is intended to be used ~~the intent~~ to cause deception, confusion, or mistake. ~~or to deceive.~~

SECTION 16. IC 24-2-1-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13.5. (a) This section applies only to fanciful marks, except in cases where the other person's use tarnishes the reputation of the famous mark.**

(b) An owner of a mark that is famous in Indiana is entitled, subject to the principles of equity and terms a court considers reasonable, to an injunction against another person's commercial use of the mark or trade name if the other person's use begins after the mark has become famous and the other person's use causes dilution of the distinctive quality of the mark, and to other relief provided in this section. In determining whether a mark is distinctive and famous, a court may consider factors such as:

- (1) the degree of inherent or acquired distinctiveness of the mark in Indiana;**
- (2) the duration and extent of use of the mark in connection with the goods or services with which the mark is used;**
- (3) the duration and extent of advertising and publicity of the mark in Indiana;**
- (4) the geographical extent of the trading area in which the mark is used;**
- (5) the channels of trade for the goods or services with which the mark is used;**
- (6) the degree of recognition of the mark in the trading areas and channels of trade in Indiana as it relates to the use of the mark by the:**
 - (A) mark's owner; and**
 - (B) person against whom the injunction is sought;**

(7) the nature and extent of use of the same or a similar mark by a third party; and

(8) whether the mark is the subject of a:

- (A) registration in Indiana;**
- (B) federal registration under the Act of March 3, 1881;**
- (C) federal registration under the Act of February 20, 1905; or**
- (D) registration on the principal register.**

(c) In an action brought under this section, the owner of a famous mark is entitled only to injunctive relief unless the person against whom the injunctive relief is sought willfully intended to trade on the owner's reputation or to cause dilution of the famous mark. If willful intent is proven, the owner of the famous mark is entitled to the other remedies set forth in this section, subject to the discretion of the court and the principles of equity.

(d) A court may require a defendant to pay to the owner of a mark all profits derived from and damages suffered by reason of the use of the mark in violation of this section and, in exceptional cases, may award reasonable attorney's fees to the prevailing party.

(e) The following are not actionable under this section:

- (1) Fair use of a famous mark by another person in comparative commercial advertising or promotion to identify the competing goods or services of the owner of the famous mark.**
- (2) Noncommercial use of the mark.**
- (3) All forms of news reporting and news commentary.**

SECTION 17. IC 24-2-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14. (a) Any An** owner of a ~~trademark mark~~ registered under this chapter may ~~proceed by suit bring an action to enjoin the use of any mark in violation of section 13 of this chapter and the manufacture, use,~~ display, or sale of any counterfeits or imitations thereof, **goods or services identified by the mark and any a court of competent jurisdiction may grant injunctions an injunction to restrain such the use of the mark and the manufacture, use,** display, or sale of the goods or services as ~~may be by the said court deemed~~ considers just and reasonable. ~~and~~

(b) A court may:

- (1) require ~~the a~~ defendant to pay to ~~such the~~ owner of a mark all:**

- (A) profits derived from; ~~and/or all and~~**
- (B) damages suffered by reason of;**

such the wrongful manufacture, use, display, or sale of the goods or services; and **such court may also**

- (2) order that any such counterfeits the goods or item bearing the mark or imitations in the possession or under the control of any a defendant in such the case be delivered to an officer of the court or to the complainant to be destroyed.**

(c) In addition to amounts a court may award under subsection (b), a court may enter judgment for:

- (1) an amount not to exceed the greater of:**
 - (A) three (3) times the profits derived from; or**
 - (B) three (3) times the damages suffered by reason of; the intentional use of a counterfeit mark, knowing it to be a**

counterfeit in connection with the goods or services for which the mark is registered; and

(2) in exceptional cases, reasonable attorney's fees to the prevailing party.

~~(b)~~ **(d) The enumeration invocation of any a right or remedy in this chapter shall does not affect a registrant's right to prosecute prosecution under any a penal law. of this state.**

SECTION 18. IC 24-2-1-14.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14.5. (a) An action for cancellation of a mark registered under this chapter or an action to compel registration of a mark under this chapter must be brought in a court with jurisdiction in Indiana.**

(b) In an action for cancellation of a mark, the secretary:

(1) may not be made a party to an action;

(2) must be notified of the filing of a complaint in an action by the clerk of the court in which the complaint is filed; and

(3) is entitled to intervene in an action for cancellation of a mark.

(c) In an action brought against a nonresident registrant, service may be effected upon the secretary as agent for service of the registrant in accordance with the procedures established for service upon nonresident corporations and business entities.

SECTION 19. IC 24-2-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 15. Nothing herein shall This chapter does not adversely affect the rights or the enforcement of rights in trade-marks a mark acquired in good faith at any time at common law.**

SECTION 20. IC 24-2-1-15.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 15.3. (a) The secretary shall adopt rules under IC 4-22-2 to establish:**

(1) an application fee;

(2) a renewal fee;

(3) a recording fee; and

(4) fees for related services.

(b) A fee is nonrefundable unless otherwise specified in the rules adopted by the secretary under subsection (a).

SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 24-2-1-1; IC 24-2-1-16.

SECTION 22. [EFFECTIVE JULY 1, 2006] **This act does not affect a legal proceeding or appeal initiated under IC 24-2-1 before July 1, 2006.**

(Reference is to EHB 1353 as printed February 10, 2006.)

Walorski, Chair

Bray

Crooks

Broden

House Conferees

Senate Conferees

Roll Call 365: yeas 49, nays 1. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 77-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 77 respectfully reports that

said two committees have conferred and agreed as follows to wit: that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 1, delete lines 1 through 10.

Page 2, delete lines 3 through 21.

Renumber all SECTIONS consecutively.

(Reference is to ESB 77 as reprinted February 22, 2006.)

Heinold, Chair

Heim

Broden

Stilwell

Senate Conferees

House Conferees

Roll Call 366: yeas 50, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 202-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 202 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 12, delete lines 29 through 42.

Page 13, delete lines 1 through 6.

Page 17, line 23, delete "subsection (b)(1)" and insert "**subdivision (1)**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 202 as reprinted March 1, 2006.)

Riegsecker, Chair

T. Brown

Sipes

C. Brown

Senate Conferees

House Conferees

Roll Call 367: yeas 50, nays 0. Report adopted.

MOTIONS TO CONCUR IN HOUSE AMENDMENTS

SENATE MOTION

Madam President: I move that the Senate do concur with the House amendments to Engrossed Senate Bill 338.

MERRITT

Roll Call 368: yeas 50, nays 0. Motion prevailed.

SENATE MOTION

Madam President: I move that the Senate do concur with the House amendments to Engrossed Senate Bill 339.

MERRITT

Roll Call 369: yeas 50, nays 0. Motion prevailed.

8:04 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 8:18 p.m., with the President of the Senate in the Chair.

CONFERENCE COMMITTEE REPORTS**CONFERENCE COMMITTEE REPORT****ESB 112-1**

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 112 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 21, delete lines 16 through 27.

Renumber all SECTIONS consecutively.

(Reference is to ESB 112 as reprinted February 24, 2006.)

Riegsecker, Chair

Woodruff

Rogers

C. Brown

Senate Conferees

House Conferees

Roll Call 370: yeas 49, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT**ESB 321-1**

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 321 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 22-4-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. **Except as provided in IC 22-4-11.5**, "computation date" means June 30 of the year preceding the effective date of new rates of contribution, except that in the event, after having been legally terminated, an employer again becomes subject to this article during the last six (6) months of a calendar year and resumes ~~his the employer's~~ former position with respect to the resources and liabilities of the experience account, then and in such case ~~his the employer's~~ first "computation date" shall mean December 31 of the fourth consecutive calendar year of such subjectivity and thereafter "computation date" for such employer shall mean June 30.

SECTION 2. IC 22-4-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. "Initial claim" means a written application, in a form prescribed by the ~~board;~~ **department**, made by an individual for the determination of ~~his the individual's~~ status as an insured worker.

SECTION 3. IC 22-4-2-24 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. "Additional claim" means a written application for a determination of benefit eligibility, made by an individual in a form prescribed by the ~~board;~~ **department**, to begin a second or subsequent series of claims in a benefit period, by which application the individual certifies to new unemployment resulting from a break in or loss of work which has occurred since the last claim was filed by such individual.

SECTION 4. IC 22-4-2-39 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 39. As used in this article, "liability administrative law judge" means a person who is:**

(1) employed as an administrative law judge under IC 22-4-17-4; and

(2) authorized to hear matters described in IC 22-4-32-1.

SECTION 5. IC 22-4-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. "Employer" also means **the following:**

(a) Any employing unit whether or not an employing unit at the time of the acquisition which acquires the organization, trade, or business within this state of another which at the time of such acquisition is an employer subject to this article, and any employing unit whether or not an employing unit at the time of the acquisition which acquires substantially all the assets within this state of such an employer used in or in connection with the operation of such trade or business, if the acquisition of substantially all such assets of such trade or business results in or is used in the operation or continuance of an organization, trade, or business.

(b) Any employing unit (whether or not an employing unit at the time of acquisition) which acquires a distinct and segregable portion of the organization, trade, or business within this state of another employing unit which at the time of such acquisition is an employer subject to this article only if the employment experience of the disposing employing unit combined with the employment of its predecessor or predecessors would have qualified such employing unit under ~~IC 22-4-7-1, section 1 of this chapter~~ if the portion acquired had constituted its entire organization, trade, or business and the acquisition results in the operation or continuance of an organization, trade, or business.

(c) Any employing unit which, having become an employer under ~~IC 22-4-7-1, 22-4-7-2(a), 22-4-7-2(b), 22-4-7-2(d), 22-4-7-2(f), or 22-4-7-2(h);~~ **section 1, 2(a), 2(b), 2(d), 2(f), or 2(h) of this chapter**, has not ceased to be an employer by compliance with the provisions of IC 22-4-9-2 and IC 22-4-9-3.

(d) For the effective period of its election pursuant to IC 22-4-9-4 or **IC 22-4-9-5**, any other employing unit which has elected to become fully subject to this article.

(e) Any employing unit for which service in employment as defined in IC 22-4-8-2(l) is performed. In determining whether an employing unit for which service other than agricultural labor is also performed is an employer under sections 1 or 2 of this chapter, the wages earned or the employment of an employee performing service in agricultural labor ~~after December 31, 1977~~, may not be taken into account. If an employing unit is determined an employer of agricultural labor, the employing unit shall be determined an

employer for the purposes of section 1 of this chapter.

(f) Any employing unit not an employer by reason of any other paragraph of ~~IC 22-4-7-2(a) through 22-4-7-2(c)~~ **section 2(a) through 2(e) of this chapter** inclusive, for which within either the current or preceding calendar year services in employment are or were performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment ~~compensation~~ **insurance** fund; or which, as a condition for approval of this article for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such Act, to be an "employer" under this article; however, an employing unit subject to contribution solely because of the terms of this subsection may file a written application to cover and insure ~~his the employing unit's~~ **employees** under the unemployment ~~compensation~~ **insurance** law of another jurisdiction. Upon approval of such application by the ~~board;~~ **department**, the employing unit shall not be deemed to be an employer and such service shall not be deemed employment under this article.

(g) Any employing unit for which service in employment, as defined in IC 22-4-8-2(i) ~~is performed after December 31, 1971 and subsequent to December 31, 1977;~~ **any employing unit for which service in employment is performed; as defined in or IC 22-4-8-2(i)(1), is performed.**

(h) Any employing unit for which service in employment, as defined in IC 22-4-8-2(j), is performed. ~~after December 31, 1971.~~

(i) Any employing unit for which service in employment as defined in IC 22-4-8-2(m) is performed. In determining whether an employing unit for which service other than domestic service is also performed is an employer under sections 1 or 2 of this chapter, the wages earned or the employment of an employee performing domestic service ~~after December 31, 1977;~~ may not be taken into account.

SECTION 6. IC 22-4-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) "Employment," subject to the other provisions of this section, means service, including service in interstate commerce performed for remuneration or under any contract of hire, written or oral, expressed or implied.

~~(a)~~ **(b)** Services performed by an individual for remuneration shall be deemed to be employment subject to this article irrespective of whether the common-law relationship of master and servant exists, unless and until ~~it is~~ **all the following conditions are** shown to the satisfaction of the ~~board that (A) such department:~~

(1) The individual has been and will continue to be free from control and direction in connection with the performance of such service, both under ~~his the individual's~~ contract of service and in fact.

~~(B) such~~ **(2)** The service is performed outside the usual course of the business for which the service is performed. ~~and~~

~~(C) such~~ **(3)** The individual:

(A) is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed; or

(B) is a sales agent who receives remuneration solely upon a commission basis and who is the master of ~~his the~~

individual's own time and effort.

~~(b) Such~~ **(c)** The term ~~shall include;~~ **also includes the following:**

(1) Services performed for remuneration by an officer of a corporation in ~~his the officer's~~ official corporate capacity.

(2) Services performed for remuneration for any employing unit by an individual:

(A) as an agent-driver or commission-driver engaged in distributing products, including but not limited to, meat, vegetables, fruit, bakery, beverages, or laundry or dry-cleaning services for ~~his the individual's~~ principal; **or**

(B) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, ~~his the individual's~~ principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

~~Provided; That (d)~~ For purposes of ~~subparagraph (b)(2) subsection (c)(2),~~ the term "employment" shall include services described in ~~(A) subsection (c)(2)(A) and (B) (c)(2)(B)~~ only if **all the following conditions are met:**

~~i.~~ **(1)** The contract of service contemplates that substantially all of the services are to be performed personally by such individual.

~~ii.~~ **(2)** The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation). ~~and~~

~~iii.~~ **(3)** The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

SECTION 7. IC 22-4-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. "Employment" shall not include the following:

~~(a)~~ **(1)** Except as provided in section 2(i) of this chapter, service performed prior to January 1, 1978, in the employ of this state, any other state, any town or city, or political subdivision, or any instrumentality of any of them, other than service performed in the employ of a municipally owned public utility as defined in this article; or service performed in the employ of the United States of America, or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this article, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation statute, all of the provisions of this article shall be applicable to such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. However, if this state shall not be certified for any year by the Secretary of Labor under Section 3304 of the Internal Revenue Code the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the

same manner and within the same period as is provided in IC 22-4-32-19 with respect to contribution erroneously paid or wrongfully assessed.

~~(b)~~ **(2)** Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; however, the ~~board~~ **department** is authorized to enter into agreements with the proper agencies under such Act of Congress which agreements shall become effective ten (10) days after publication thereof, ~~in the manner provided in IC 22-4-19-2 for rules of the board; in accordance with rules adopted by the department under IC 4-22-2,~~ to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this article, acquired rights to unemployment compensation under such Act of Congress, or who have, after having acquired potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this article.

~~(c)~~ **(3)** "Agricultural labor" as provided in section 2(l)(1) of this chapter shall include only services performed:

~~(i)~~ **(A)** on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

~~(ii)~~ **(B)** in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

~~(iii)~~ **(C)** in connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing Act (**12 U.S.C. 1141j(g)**) as amended, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

~~(iv)~~~~(A)~~ **(D)** in the employ of:

(i) the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half (1/2) of the commodity with respect to which such service is performed; **or**

~~(B) in the employ of~~ **(ii)** a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in ~~subdivision (A); item (i),~~ but only if such operators produce more than one-half (1/2) of the commodity with respect to which such service is performed;

~~(E)~~ **except** the provisions of ~~subdivisions (A) and (B) items~~

(i) and (ii) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

~~(v)~~ **(E)** on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

(4) As used in ~~this subsection; subdivision (3),~~ "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities.

~~(d)~~ **(5)** Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in section 2(m) of this chapter.

~~(e)~~ **(6)** Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft, if the employee is employed on and in connection with such vessel or aircraft when outside the United States.

~~(f)~~ **(7)** Service performed by an individual in the employ of child or spouse, and service performed by a child under the age of twenty-one (21) in the employ of a parent.

~~(g)~~ **(8)** Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for such service is fifty dollars (\$50) or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purposes of this ~~subsection; subdivision,~~ an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if:

~~(i)~~ **(A)** on each of some of twenty-four (24) days during such quarter such individual performs such service for some portion of the day; or

~~(ii)~~ **(B)** such individual was regularly employed (as determined under clause ~~(i)~~ **(A)**) by such employing unit in the performance of such service during the preceding calendar quarter.

~~(h)~~ **(9)** Service performed by an individual in any calendar quarter in the employ of any organization exempt from income tax under Section 501 of the Internal Revenue Code (except those services included in sections 2(i) and 2(j) of this chapter if the remuneration for such service is less than fifty dollars (\$50)).

~~(i)~~ **(10)** Service performed in the employ of a hospital, if such service is performed by a patient of such hospital.

~~(j)~~ **(11)** Service performed in the employ of a school, college, or university if such service is performed:

~~(i)~~ **(A)** by a student who is enrolled and is regularly attending classes at such school, college, or university; or

~~(ii)~~ **(B)** by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

~~(A)~~ (i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university; and

~~(B)~~ (ii) such employment will not be covered by any program of unemployment insurance.

~~(k)~~ (12) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this ~~subsection~~ **subdivision** shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

~~(h)~~ (13) Service performed in the employ of a government foreign to the United States of America, including service as a consular or other officer or employee or a nondiplomatic representative.

~~(m)~~ (14) Service performed in the employ of an instrumentality wholly owned by a government foreign to that of the United States of America, if the service is of a character similar to that performed in foreign countries by employees of the United States of America or of an instrumentality thereof, and if the board finds that the Secretary of State of the United States has certified to the Secretary of the Treasury of the United States that the government, foreign to the United States, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in such country by employees of the United States and of instrumentalities thereof.

~~(n)~~ (15) Service performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four (4) year course in a medical school chartered or approved pursuant to state law.

~~(o)~~ (16) Service performed by an individual as an insurance producer or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission.

~~(p)~~~~(A)~~ (17) Service performed by an individual:

(A) under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; **or**

(B) ~~Services performed by an individual~~ in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by ~~him~~ **the**

individual at a fixed price, ~~his~~ **the individual's** compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to ~~him~~; **the individual**, whether or not ~~he~~ **the individual** is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

~~(q)~~ (18) Service performed in the employ of an international organization.

~~(r)~~ (19) Except as provided in IC 22-4-7-1, services covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law in accordance with an arrangement pursuant to IC 22-4-22-1 through IC 22-4-22-5, during the effective period of such election.

~~(s)~~ (20) If the service performed during one-half (1/2) or more of any pay period by an individual for an employing unit constitutes employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half (1/2) of any pay period by such an individual do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection, "pay period" means a period of not more than thirty-one (31) consecutive days for which a payment of remuneration is ordinarily made to the individual by the employing unit. This subsection shall not be applicable with respect to services performed in a pay period by any such individual where any such service is excepted by ~~subsection (b)~~ **subdivision (2)**.

~~(t)~~ (21) Service performed by an inmate of a custodial or penal institution.

~~(u)~~ (22) Service performed as a precinct election officer (as defined in IC 3-5-2-40.1).

SECTION 8. IC 22-4-9-3, AS AMENDED BY P.L.98-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) This section is subject to the provisions of IC 22-4-11.5.

(b) Any employer subject to this article as successor to an employer pursuant to the provisions of IC 22-4-7-2(a) or IC 22-4-7-2(b) shall cease to be an employer at the end of the year in which the acquisition occurs only if the ~~board~~ **department** finds that within such calendar year the employment experience of the predecessor prior to the date of disposition combined with the employment experience of the successor subsequent to the date of acquisition would not be sufficient to qualify the successor employer as an employer under the provisions of IC 22-4-7-1. No such successor employer may cease to be an employer subject to this article at the end of the first year of the current period of coverage of the predecessor employer. If all of the resources and liabilities of the experience account of an employer are assumed by another in accordance with the provisions of IC 22-4-10-6 or IC 22-4-10-7, such employer's status as employer and under this article is hereby terminated unless and until such employer subsequently qualifies under the provisions of IC 22-4-7-1 or IC 22-4-7-2 or elects to

become an employer under sections 4 or 5 of this chapter.

(c) If no application for termination, as herein provided, is filed by an employer and four (4) full calendar years have elapsed since any contributions have become payable from such employer, then and in such cases the ~~board~~ **department** may terminate such employer's experience account.

SECTION 9. IC 22-4-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Any employing unit not otherwise subject to this article which files with the ~~board~~ **department** its written election to become an employer subject to this article for not less than two (2) calendar years shall, with the written approval of such election by the ~~board~~, **department**, become an employer subject to this article to the same extent as all other employers as of the date stated in such approval. ~~provided~~; However, ~~that~~ the voluntary election of any such employer shall become inoperative if such employing unit becomes an employer by reason of IC 22-4-7-1.

SECTION 10. IC 22-4-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Contributions shall accrue and become payable from each employer for each calendar year in which it is subject to this article with respect to wages paid during such calendar year. ~~except~~ Where the status of an employer is changed by cessation or disposition of business or appointment of a receiver, trustees, trustee in bankruptcy, or other fiduciary, contributions shall immediately become due and payable on the basis of wages paid or payable by such employer as of the date of the change of status. Such contributions shall be paid to the department in such manner as the ~~commissioner~~ **department** may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in an employer's employ. When contributions are determined in accordance with Schedule A as provided in IC 22-4-11-3, the ~~board~~ **department** may prescribe rules to require an estimated advance payment of contributions in whole or in part, if in the judgment of the ~~board~~ **department** such advance payments will avoid a debit balance in the fund during the calendar quarter to which the advance payment applies. An adjustment shall be made following the quarter in which an advance payment has been made to reflect the difference between the estimated contribution and the contribution actually payable. Advance payment of contributions shall not be required for more than one (1) calendar quarter in any calendar year.

~~(a)(1)~~ (b) Any employer which is, or becomes, subject to this article by reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay contributions as provided under this article unless it elects to become liable for "payments in lieu of contributions" (as defined in IC 22-4-2-32).

(2) (c) Except as provided in subsection ~~(a)(4)~~, (e), the election to become liable for "payments in lieu of contributions" must be filed with the department on a form prescribed by the ~~commissioner~~ **department** not later than thirty-one (31) days following the date upon which such entity qualifies as an employer under this article, and shall be for a period of not less than two (2) calendar years.

(3) (d) Any employer ~~which that~~ makes an election in accordance with ~~subdivisions (1) through (2)~~ **subsections (b) and (c)** will

continue to be liable for "payments in lieu of contributions" until it files with the ~~commissioner~~ **department** a written notice terminating its election. ~~This~~ **The notice filed by an employer to terminate its election** must be filed not later than thirty (30) days prior to the beginning of the taxable year for which such termination shall first be effective.

~~(4)~~ (e) Any employer ~~which that~~ qualifies to elect to become liable for "payments in lieu of contributions" and has been paying contributions under this article, ~~for a period subsequent to January 1, 1972~~, may change to a reimbursable basis by filing with the department not later than thirty (30) days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

~~(b)(1)~~ (f) Employers making "payments in lieu of contributions" under ~~subsection (a)~~ **subsections (b) and (c)** shall make reimbursement payments monthly. At the end of each calendar month the department shall bill each such employer (or group of employers) for an amount equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during such month that is attributable to services in the employ of such employers or group of employers. Governmental entities of this state and its political subdivisions electing to make "payments in lieu of contributions" shall be billed by the department at the end of each calendar month for an amount equal to the full amount of regular benefits plus the full amount of extended benefits paid during the month that is attributable to service in the employ of the governmental entities.

(2) (g) Payment of any bill rendered under ~~subdivision (1)~~ **subsection (f)** shall be made not later than thirty (30) days after such bill was mailed to the last known address of the employer or was otherwise delivered to it, unless there has been an application for review and redetermination ~~in accordance with subdivision (4)~~; **filed under subsection (i)**.

(3) (h) Payments made by any employer under the provisions of ~~this subsection~~ **subsections (f) through (j)** shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the employer.

(4) (i) The amount due specified in any bill from the department shall be conclusive on the employer unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the employer files an application for redetermination. If the employer so files, the employer shall have an opportunity to be heard, and such hearing shall be conducted by a liability administrative law judge pursuant to IC 22-4-32-1 through IC 22-4-32-15. After the hearing, the liability administrative law judge shall immediately notify the employer in writing of the finding, and the bill, if any, so made shall be final, in the absence of judicial review proceedings, fifteen (15) days after such notice is issued.

(5) (j) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to IC 22-4-29, apply to past due contributions.

(6) (k) Two (2) or more employers that have elected to become liable for "payments in lieu of contributions" in accordance with

~~subsection (a)~~ **subsections (b) and (c)** may file a joint application with the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Such group account shall be established as provided in regulations prescribed by the commissioner.

SECTION 11. IC 22-4-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. Except as provided in ~~section 1(a)~~ **section 1(b) through 1(e)** of this chapter, each employer shall pay contributions equal to ~~the following percentage of wages: (a) five and four-tenths six-tenths percent (5.4%); (5.6%) of wages,~~ except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3, **IC 22-4-11.5**, and IC 22-4-37-3.

SECTION 12. IC 22-4-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. **(a)** Except as provided in ~~section 1(a)~~ **section 1(b) through 1(e)** of this chapter, the commissioner shall maintain within the fund a separate experience account for each employer and shall credit to such account all contributions paid by such employer on its behalf except as otherwise provided in this article.

(b) The commissioner shall also maintain a separate account for each employer electing to make payments in lieu of contributions as provided in ~~section 1(a)~~ **section 1(b) through 1(e)** of this chapter and shall charge to such account all benefits chargeable to such employer and credit to such account all reimbursements made by such employer.

SECTION 13. IC 22-4-10-6, AS AMENDED BY P.L.98-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. **(a)** When:

- (1) an employing unit (whether or not an employing unit at the time of the acquisition) becomes an employer under IC 22-4-7-2(a);
- (2) an employer acquires the organization, trade, or business, or substantially all the assets of another employer; or
- (3) an employer transfers all or a portion of the employer's trade or business (including the employer's workforce) to another employer as described in IC 22-4-11.5-7;

the successor employer shall, in accordance with the rules prescribed by the ~~board~~, **department**, assume the position of the predecessor with respect to all the resources and liabilities of the predecessor's experience account.

(b) Except as provided by IC 22-4-11.5, when:

- (1) an employing unit (whether or not an employing unit at the time of the acquisition) becomes an employer under IC 22-4-7-2(b); or
- (2) an employer acquires a distinct and segregable portion of the organization, trade, or business within this state of another employer;

the successor employer shall assume the position of the predecessor employer with respect to the portion of the resources and liabilities of the predecessor's experience account as pertains to the distinct and segregable portion of the predecessor's organization, trade, or business acquired by the successor. An application for the acquiring employer to assume this portion of the resources and liabilities of the

disposing employer's experience account must be filed with the ~~commissioner~~ **department** on prescribed forms not later than ~~one hundred fifty (150)~~ **thirty (30)** days immediately following the disposition date or not later than ten (10) days after the disposing and acquiring employers are mailed or otherwise delivered final notice that the acquiring employer is a successor employer, whichever is the earlier date. This portion of the resources and liabilities of the disposing employer's experience account shall be transferred in accordance with IC 22-4-11.5.

(c) Except as provided by IC 22-4-11.5, the successor employer, if an employer prior to the acquisition, shall pay at the rate of contribution originally assigned to it for the calendar year in which the acquisition occurs, until the end of that year. If not an employer prior to the acquisition, the successor employer shall pay the rate of two and seven-tenths percent (2.7%) unless the successor employer assumes all or part of the resources and liabilities of the predecessor employer's experience account, in which event the successor employer shall pay at the rate of contribution assigned to the predecessor employer for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of that year. However, if a successor employer, not an employer prior to the acquisition, simultaneously acquires all or part of the experience balance of two (2) or more employers, the successor employer shall pay at the highest rate applicable to the experience accounts totally or partially acquired for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of the year. If the successor employer had any employment prior to the date of acquisition upon which contributions were owed under IC 22-4-9-1, the employer's rate of contribution from the first of the year to the first day of the calendar quarter in which the acquisition occurred would be two and seven-tenths percent (2.7%).

SECTION 14. IC 22-4-10.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. **(a)** **Subject to subsection (d)**, skills 2016 assessments unpaid on the date on which they are due and payable bear interest at the rate of one percent (1%) per month or fraction of a month from and after that date until payment plus accrued interest is received by the department.

(b) **Subject to subsection (d)**, a twenty-five dollar (\$25) penalty shall be assessed on any skills 2016 assessments that are unpaid on the date subsequent to the date on which they are due and payable.

(c) All penalty and interest collected on delinquent skills 2016 assessments shall be deposited in the skills 2016 training fund established under ~~IC 22-4-24.5~~ **IC 5-28-27-3**.

(d) **The department may adopt fair and reasonable policies to waive the penalty and interest assessed under this section.**

SECTION 15. IC 22-4-11-2, AS AMENDED BY P.L.98-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. **(a)** Except as provided in IC 22-4-11.5, the ~~commissioner~~ **department** shall for each year determine the contribution rate applicable to each employer.

(b) The balance shall include contributions with respect to the period ending on the computation date and actually paid on or before July 31 immediately following the computation date and benefits actually paid on or before the computation date and shall also include

any voluntary payments made in accordance with IC 22-4-10-5:

(1) for each calendar year, an employer's rate shall be determined in accordance with the rate schedules in section 3 or 3.3 of this chapter; and

(2) for each calendar year, an employer's rate shall be two and seven-tenths percent (2.7%), except as otherwise provided in IC 22-4-37-3, unless and until:

(A) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date; and

(B) there has been some annual payroll in each of the three

(3) twelve (12) month periods immediately preceding the computation date.

(c) In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five and ~~four-tenths six-tenths~~ percent (~~5.4%~~) **(5.6%)** unless all required contribution and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessors for periods prior to and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the ~~commissioner~~ **department** has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date.

The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The ~~commissioner~~ **department** shall give written notice to the employer before this additional condition or requirement shall apply.

(d) However, if the employer is the state or a political subdivision of the state or any instrumentality of a state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, the employer may contribute at a rate of one percent (1%) until it has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date.

(e) On the computation date every employer who had taxable wages in the previous calendar year shall have the employer's experience account charged with the amount determined under the following formula:

STEP ONE: Divide:

(A) the employer's taxable wages for the preceding calendar year; by

(B) the total taxable wages for the preceding calendar year.

STEP TWO: Multiply the quotient determined under STEP ONE by the total amount of benefits charged to the fund under section 1 of this chapter.

(f) One (1) percentage point of the rate imposed under subsection (c) or the amount of the employer's payment that is attributable to the

increase in the contribution rate, whichever is less, shall be imposed as a penalty that is due and shall be deposited upon collection into the special employment and training services fund established under IC 22-4-25-1. The remainder of the contributions paid by an employer pursuant to the maximum rate shall be:

(1) considered a contribution for the purposes of this article; and

(2) deposited in the unemployment insurance benefit fund established under IC 22-4-26.

SECTION 16. IC 22-4-11.5-2, AS ADDED BY P.L.98-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter, "administrative law judge" means a person ~~appointed~~ **employed** by the commissioner under IC 22-4-17-4.

SECTION 17. IC 22-4-11.5-5, AS ADDED BY P.L.98-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. As used in this chapter, "violates or attempts to violate" includes

~~(1)~~ the intent to evade **a higher employer contribution rate in connection with a transfer of a trade or business through**

~~(2)~~ misrepresentation or

~~(3)~~ willful nondisclosure **of information relevant to the transfer.**

SECTION 18. IC 22-4-11.5-7, AS ADDED BY P.L.98-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) ~~¶ This section applies to a transfer of a trade or business that meets the following requirements:~~

(1) An employer transfers all or a portion of the employer's trade or business to another employer. ~~and~~

(2) At the time of the transfer, the two (2) employers have substantially common ownership, management, or control.

(b) The successor employer shall assume the experience rating account balance of the predecessor employer for the resources and liabilities of the predecessor employer's experience account that are attributable to the transfer.

~~(b) (c)~~ The contribution rates of both employers shall be recalculated, and **the recalculated rate** made effective on the **effective date** ~~that of~~ the transfer described in subsection (a). **is effective**

~~(c) (d)~~ The ~~experience account balance and the~~ payroll of the predecessor employer on the **effective** date of the transfer, and the benefits chargeable to the predecessor employer's original experience account after the **effective** date of the transfer, must be divided between the predecessor employer and the successor employer in accordance with rules adopted by the department under IC 4-22-2.

~~(d) (e)~~ Any written determination made by the department is conclusive and binding on both the predecessor employer and the successor employer unless one (1) **employer files** or both employers file ~~with the department~~ a written protest **with the department** setting forth ~~the grounds and all~~ reasons for the protest. A protest under this section must be filed not later than ~~ten (10)~~ **fifteen (15)** days after the date the department ~~mails~~ **sends** the initial determination to the ~~employing units~~ **employers**. The protest shall be

heard and determined under this section and IC 22-4-32-1 through IC 22-4-32-15. ~~Both~~ The predecessor employer, ~~and the~~ successor employer, **and the department** shall be parties to the hearing before the **liability** administrative law judge and are entitled to receive copies of all pleadings and the decision.

SECTION 19. IC 22-4-11.5-8, AS ADDED BY P.L.98-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) If the department determines that an employing unit or other person that is not an employer under IC 22-4-7 at the time of the acquisition has acquired an employer's trade or business solely **or primarily** for the purpose of obtaining a lower employer contribution rate, the employing unit or other person:

- (1) may not assume the experience ~~rating~~ **account balance** of the predecessor employer for the resources and liabilities of the predecessor employer's experience account that are attributable to the acquisition; and
- (2) shall pay the applicable contribution rate as determined under this ~~chapter~~ **article**.

(b) In determining whether an employing unit or other person acquired a trade or business solely **or primarily** for the purpose of obtaining a lower employer contribution rate under subsection (a), the ~~commissioner~~ **department** shall consider the following **factors**:

- (1) The cost of acquiring the trade or business.
- (2) Whether the employing unit or other person continued the business enterprise of the acquired trade or business.
- (3) The length of time the employing unit or other person continued the business enterprise of the acquired trade or business.
- (4) Whether a substantial number of new employees were hired to perform duties unrelated to the business enterprise that the trade or business conducted before the trade or business was acquired.

~~(c) If the commissioner makes an initial determination that a violation of this chapter has occurred, the commissioner shall promptly refer the matter to an administrative law judge for a hearing and decision under this article:~~

(c) Any written determination made by the department is conclusive and binding on the employing unit or other person, unless the employing unit or other person files a written protest with the department setting forth all reasons for the protest. A protest under this section must be filed not later than fifteen (15) days after the date the department sends the initial determination to the employing unit or other person. The protest shall be heard and determined under this section and IC 22-4-32-1 through IC 22-4-32-15. The department and the employing unit or other person shall be parties to the hearing before the liability administrative law judge and are entitled to receive copies of all pleadings and the decision.

SECTION 20. IC 22-4-11.5-9, AS ADDED BY P.L.98-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) A person who knowingly or recklessly:

- (1) violates or attempts to violate:
 - (A) section 7 or 8 of this chapter; or
 - (B) any other provision of this article related to determining the assumption or assignment of an employer's contribution rate; or
- (2) advises another person in a way that results in a violation of:
 - (A) section 7 or 8 of this chapter; or
 - (B) any other provision of this article related to determining the assumption or assignment of an employer's contribution rate;

~~commits a Class C misdemeanor; is subject to a civil penalty under this chapter.~~

(b) If the department determines that an employer (as defined under IC 22-4-7) is subject to a civil penalty under subsection (a)(1), the department shall assign an employer contribution rate equal to one (1) of the following as a civil penalty:

- (1) The highest employer contribution rate assignable under this article for the year in which the violation occurred and the following three (3) years.
- (2) An additional employer contribution rate of two percent (2%) of the employer's taxable wages (as defined in IC 22-4-4-2) for the year in which the violation occurred and the following three (3) years, if:
 - (A) an employer is already paying the highest employer contribution rate at the time of the violation; or
 - (B) the increase in the contribution rate described in subdivision (1) is less than two percent (2%).

(c) If the department determines that a person who is not an employer (as defined in IC 22-4-7) is subject to a civil penalty under subsection (a)(2), the department shall assess a civil penalty of not more than five thousand dollars (\$5,000).

(d) All civil penalties collected under this section shall be deposited in the unemployment insurance benefit fund established by IC 22-4-26-1.

(e) Any written determination made by the department is conclusive and binding on the employing unit, employer, or person unless the employing unit, employer, or person files a written protest with the department setting forth all reasons for the protest. A protest under this section must be filed not later than fifteen (15) days after the date the department sends the initial determination to the employing unit, employer, or person. The protest shall be heard and determined under this section and IC 22-4-32-1 through IC 22-4-32-15. The employing unit, employer, or person, and the department shall be parties to the hearing before the liability administrative law judge and are entitled to receive copies of all pleadings and the decision.

SECTION 21. IC 22-4-11.5-10, AS AMENDED BY HEA 1040-2006, SECTION 344, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. ~~(a)~~ In addition to any other penalty imposed, a person who **knowingly, recklessly, or intentionally** violates this chapter is subject to a civil penalty under this chapter:

(b) This subsection applies to a person who is an employer (as defined in IC 22-4-7). If an administrative law judge determines that

a person is subject to a civil penalty under subsection (a); the administrative law judge shall assign an employer contribution rate equal to one (1) of the following as a civil penalty:

(1) The highest employer contribution rate assignable under this article for:

- (A) the year in which the violation occurred; and
- (B) the following three (3) years:

(2) An employer contribution rate of two percent (2%) of the employer's taxable wages (as defined in IC 22-4-4-2) for the year in which the violation occurred and the following three (3) years; if:

- (A) an employer is already paying the highest employer contribution rate at the time of the violation; or
- (B) the increase in the contribution rate described in subdivision (1) is less than two percent (2%):

(c) This subsection applies to a person who is not an employer (as defined in IC 22-4-7): If an administrative law judge determines that a person is subject to a civil penalty under subsection (a); the administrative law judge shall assess a civil penalty of not more than five thousand dollars (\$5,000):

(d) All civil penalties collected under this section shall be deposited in the unemployment insurance benefit fund established by IC 22-4-26-1:

commits a Class C misdemeanor.

SECTION 22. IC 22-4-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Benefits designated as unemployment ~~compensation insurance~~ benefits shall become payable from the fund to any individual who is or becomes unemployed and eligible for benefits under the terms of this article. All benefits shall be paid through ~~employment offices maintained and operated by this state~~ the department or such other agencies as the ~~board~~ department by rule may designate at such times and in such manner as the ~~board~~ department may prescribe. ~~provided; that the board~~ The department may ~~prescribe~~ adopt rules to provide for the payment of benefits due and payable on executed vouchers to persons since deceased; benefits so due and payable may be paid to the legal representative, dependents, or next of kin of the deceased as are found to be entitled thereto, which rules need not conform with the laws of the state governing decedent estates, and every such payment shall be deemed a valid payment to the same extent as if made to the legal representative of the deceased.

SECTION 23. IC 22-4-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. **(a) Whenever an individual receives benefits or extended benefits to which the individual is not entitled under:**

(1) this article; or

(2) the unemployment insurance law of the United States; the department shall establish that an overpayment has occurred and establish the amount of the overpayment.

(b) An individual described in subsection (a) is liable to repay the established amount of the overpayment.

(a) (c) Any individual who knowingly:

- (1) makes, or causes to be made by another, a false statement or representation of a material fact knowing it to be false; or**

knowingly

(2) fails, or causes another to fail, to disclose a material fact; and

as a result thereof has received any amount as benefits to which the individual is not entitled under this article, shall be liable to repay such amount, **with interest at the rate of one-half percent (0.5%) per month**, to the ~~commissioner~~ department for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article, within the six (6) year period following ~~the later of the date of the filing of the claim or statement that resulted in the payment of such benefits; if the existence of such misrepresentation or nondisclosure has become final by virtue of an unappealed determination of a deputy; or a decision of an administrative law judge; or the review board; or by a court of competent jurisdiction:~~ **the department establishes that an overpayment has occurred or the date that the determination of an overpayment becomes final following the exhaustion of all appeals.**

~~(b) (d) Any individual who, for any reason other than misrepresentation or nondisclosure as specified in subsection (a); (c), has received any amount as benefits to which the individual is not entitled under this article or because of the subsequent receipt of income deductible from benefits which is allocable to the week or weeks for which such benefits were paid becomes not entitled to such benefits under this article shall be liable to repay such amount to the commissioner department for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article, within the three (3) year period following the later of the date of the filing of the claim or statement that resulted in the payment of such benefits; if the existence of such reason has become final by virtue of an unappealed determination of a deputy or a decision of an administrative law judge; or the review board; or by a court of competent jurisdiction:~~ **the department establishes that the overpayment occurred or the date that the determination that an overpayment occurred becomes final following the exhaustion of all appeals.**

~~(c) (e) When benefits are paid to an individual who was eligible or qualified to receive such payments, but when such payments are made because of the failure of representatives or employees of the department to transmit or communicate to such individual notice of suitable work offered, through the department, to such individual by an employing unit, then and in such cases, the individual shall not be required to repay or refund amounts so received, but such payments shall be deemed to be benefits improperly paid.~~

~~(d) (f) Where it is finally determined by a deputy, an administrative law judge, the review board, or a court of competent jurisdiction that an individual has received benefits to which the individual is not entitled under this article, the commissioner department shall relieve the affected employer's experience account of any benefit charges directly resulting from such overpayment. However, an employer's experience account will not be relieved of the charges resulting from an overpayment of benefits which has been created by a retroactive payment by such employer directly or indirectly to the claimant for a period during which the claimant claimed and was paid benefits~~

unless the employer reports such payment by the end of the calendar quarter following the calendar quarter in which the payment was made or unless and until the overpayment has been collected. Those employers electing to make payments in lieu of contributions shall not have their account relieved as the result of any overpayment unless and until such overpayment has been repaid to the unemployment insurance benefit fund.

~~(c)~~ **(g)** Where any individual is liable to repay any amount to the ~~commissioner~~ **department** for the unemployment insurance benefit fund for the restitution of benefits to which the individual is not entitled under this article, the amount due may be collectible without interest, **except as otherwise provided in subsection (c),** by civil action in the name of the state of Indiana, on relation of the department, which remedy by civil action shall be in addition to all other existing remedies and to the methods for collection provided in this ~~section~~ **article**.

~~(f)~~ **(h)** Liability for repayment of benefits paid to an individual (other than an individual employed by an employer electing to make payments in lieu of contributions) for any week may be waived upon the request of the individual if:

- (1) the benefits were received by the individual without fault of the individual;
- (2) the benefits were the result of payments made:
 - (A) during the pendency of an appeal before an administrative law judge or the review board under IC 22-4-17 under which the individual is determined to be ineligible for benefits; or**
 - (B) because of an error by the employer or the department; and**
- (3) repayment would cause economic hardship **to the individual**.

SECTION 24. IC 22-4-13-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.1. (a) Notwithstanding any other provisions of this article, if an individual knowingly:**

- (1) fails to disclose amounts earned during any week in the individual's waiting period, benefit period, or extended benefit period; or**
- (2) fails to disclose or has falsified any fact;**

that would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits, the individual forfeits any wage credits earned or any benefits or extended benefits that might otherwise be payable to the individual for the period in which the failure to disclose or falsification occurs.

(b) In addition to amounts forfeited under subsection (a), an individual is subject to the following civil penalties for each instance in which the individual knowingly fails to disclose or falsifies any fact that if accurately reported to the department would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits:

- (1) For the first instance, an amount equal to twenty-five percent (25%) of the benefit overpayment.**

(2) For the second instance, an amount equal to fifty percent (50%) of the benefit overpayment.

(3) For the third and each subsequent instance, an amount equal to one hundred percent (100%) of the benefit overpayment.

(c) The department's determination under this section constitutes an initial determination under IC 22-4-17-2(e) and is subject to a hearing and review under IC 22-4-17-3 through IC 22-4-17-15.

(d) Interest and civil penalties collected under this chapter shall be deposited in the special employment and training services fund established under IC 22-4-25-1.

SECTION 25. IC 22-4-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2. (a) An unemployed individual is eligible to receive benefits with respect to any week only if the individual has:**

- (1) registered for work at an employment office or branch thereof or other agency designated by the commissioner within the time limits that the ~~board~~ department by rule adopts; and**
- (2) subsequently reported with the frequency and in the manner, either in person or in writing, that the ~~board~~ department by rule adopts.**

(b) Failure to comply with subsection (a) shall be excused by the commissioner or the commissioner's authorized representative upon a showing of good cause therefor. The ~~board~~ department shall by rule waive or alter the requirements of this section as to such types of cases or situations with respect to which the ~~commissioner~~ department finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this article.

(c) The department shall provide job counseling or training to an individual who remains unemployed for at least four (4) weeks. The manner and duration of the counseling shall be determined by the ~~board~~ department.

(d) The board may by rule prescribe procedures for the issuance of unemployment compensation warrants from the local office:

(d) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) is entitled to complete the reporting, counseling, or training that must be conducted in person at a one stop center selected by the individual. The department shall advise an eligible individual that this option is available.

SECTION 26. IC 22-4-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3. (a) This section does not apply to An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) may restrict the individual's availability because of the individual's need to address the physical, psychological, or legal effects of being a victim of domestic or family violence (as defined in IC 31-9-2-42).**

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

- (1) is physically and mentally able to work;**
- (2) is available for work;**
- (3) is found by the department to be making an effort to secure full-time work; and**
- (4) participates in reemployment services, such as job search assistance services, if the individual has been determined to be**

likely to exhaust regular benefits and to need reemployment services under a profiling system established by the ~~commissioner, department~~, unless the ~~commissioner~~ **department** determines that:

- (A) the individual has completed the reemployment services; or
- (B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2(b).

The term "effort to secure full-time work" shall be defined by the board through rule which shall take into consideration whether such individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment. However, if an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3) of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

(c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:

- (1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment; or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;
- (2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;
- (3) that such individual is suspended for misconduct in connection with the individual's work; or
- (4) that such individual is in attendance at a regularly established public or private school during the customary hours of the individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and is available for suitable full-time work with the individual's last employer, or is available for any other full-time employment deemed suitable.

(d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The ~~board~~ **department** shall by rule prescribe the conditions under which approval of such training will be

granted.

SECTION 27. IC 22-4-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. Notwithstanding any other provisions of this article, benefits otherwise payable for any week under this article shall not be denied or reduced on account of any payment or payments the claimant receives, has received, will receive, or accrues right to receive with respect to or based upon such week under a private unemployment benefit plan financed in whole or part by ~~his the claimant's~~ employer or former employer. No claim for repayment of benefits and no deduction from benefits otherwise payable under this article shall be made under ~~IC 22-4-13-1(b)~~ **IC 22-4-13-1(d)** and IC 22-4-13-1(e) because of payments which have been or will be made under such private unemployment benefit plans.

SECTION 28. IC 22-4-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Claims for benefits shall be made in accordance with ~~such regulations as the board may prescribe; however, rules adopted by the department.~~ The ~~board~~ **department** shall ~~prescribe~~ **adopt** reasonable procedures consistent with the provisions of this article for the expediting of the taking of claims of individuals for benefits in instances of mass layoffs by employers, the purpose of which shall be to minimize the amount of time required for such individuals to file claims upon becoming unemployed as the result of such mass layoffs.

(b) Except when the result would be inconsistent with the other provisions of this article, as provided in the rules of the ~~board~~, **department**, the provisions of this article which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

(c) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the commissioner shall make an appropriate public announcement.

(d) Computations required by the provisions of IC 22-4-2-34(e) shall be made by the ~~commissioner~~ **department** in accordance with regulations prescribed by the United States ~~Secretary~~ **Department** of Labor.

(e) Each employer shall display and maintain in places readily accessible to all employees posters concerning its regulations and shall make available to each such individual at the time the individual becomes unemployed printed benefit rights information furnished by the department.

SECTION 29. IC 22-4-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of the individual's status as an insured worker in a form prescribed by the ~~board~~, **department**. A written notice of the determination of insured status shall be furnished to the individual promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the

week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ten (10) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) ~~Except as provided in subsection (i);~~ The department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and Social Security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within ten (10) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ten (10) days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the ~~board;~~ **department.**

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in IC 22-4-17-3.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ten (10) days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the claimant or the employer, asks a hearing before an

administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within fifteen (15) days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the ~~commissioner~~ **department** in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the ~~board~~ **department** may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) A person may not participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

(i) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer ~~that a claim for benefits has been made;~~ **of the claimant's current address or physical location.**

SECTION 30. IC 22-4-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. ~~(a) The commissioner~~ **department** shall ~~appoint~~ **employ** one (1) or more administrative law judges to hear and decide disputed claims. ~~Such administrative law judges shall be full-time salaried employees of the department.~~ Administrative law judges ~~appointed~~ **employed** under this section are not subject to IC 4-21.5 or any other statute regulating administrative law judges, unless specifically provided.

~~(b) The unemployment insurance board may authorize employment of part time administrative law judges for limited periods.~~

SECTION 31. IC 22-4-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. The manner in

which disputed claims shall be presented and the conduct of hearings and appeals shall be in accordance with rules adopted by the ~~board~~ **department** for determining the rights of the parties, whether or not the rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. The testimony at any hearing upon a disputed claim need not be transcribed unless the disputed claim is further appealed. Each party to a hearing before an administrative law judge held under section 3 of this chapter shall be mailed a notice of the hearing at least ten (10) days before the date of the hearing specifying the place and time of the hearing and identifying the issues to be decided. If a hearing so scheduled has not commenced within at least sixty (60) minutes of the time for which it was scheduled, then a party involved in the hearing may request a continuance of the hearing. ~~A request for a continuance shall be submitted to the administrative law judge scheduled to conduct the hearing if the administrative law judge is available to receive the request; or otherwise may be submitted to the local office in which or nearest to which the hearing is scheduled to be held.~~ Upon submission of a request for continuance of a hearing under circumstances provided in this section, the continuance shall be granted unless the party requesting the continuance was responsible for the delay in the commencement of the hearing as originally scheduled. In the latter instance, the continuance shall be discretionary with the administrative law judge. Testimony or other evidence introduced by a party at a hearing before an administrative law judge or the review board that another party to the hearing:

- (1) is not prepared to meet; and
- (2) by ordinary prudence could not be expected to have anticipated;

shall be good cause for continuance of the hearing and upon motion such continuance shall be granted.

SECTION 32. IC 22-4-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. In the discharge of the duties imposed by this article, any member of the board, ~~the~~ **department**, the review board, or an administrative law judge, or any duly authorized representative of any of them, shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue and serve subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the disputed claim or the administration of this article.

SECTION 33. IC 22-4-17-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. In case of contumacy by, or refusal to obey a subpoena issued to, any person **in the administration of this article**, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the board, ~~the department~~, or the review board or a duly authorized representative of ~~either~~, **any of these**, shall have jurisdiction to issue to such person an order requiring such person to appear before the board, ~~the department~~, the review board, an administrative law

judge, or the duly authorized representative of any of these, there to produce evidence if so ordered, or there to give testimony touching the matter in question or under investigation. Any failure to obey such order of the court may be punished by said court as a contempt thereof.

SECTION 34. IC 22-4-17-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8.5. **(a) As used in this section, "interested party" has the meaning set forth in 646 IAC 3-12-1.**

(b) An administrative law judge ~~and or~~ the review board may hold a hearing under this chapter by telephone if any of the following conditions exist:

- (1) The claimant or the employer is not located in Indiana.
- (2) ~~All of the following conditions exist:~~
 - ~~(A) The claimant and the employer are located in Indiana.~~
 - ~~(B) The claimant or the employer An interested party requests without an objection being filed as provided in 646 IAC 3-12-21 that the hearing be held by telephone.~~
 - ~~(C) The administrative law judge or the review board determines that the distance between the location of the claimant and the location of the employer is so great that a hearing held by telephone is justified under the circumstances.~~
- (3) ~~A~~ **An interested party** cannot appear in person because of an illness or injury to the party.
- (4) **In the case of a hearing before an administrative law judge, the administrative law judge determines without any interested party filing an objection as provided in 646 IAC 3-12-21 that a hearing by telephone is proper and just.**
- ~~(4)~~ (5) In the case of a hearing before the review board, the issue to be adjudicated does not require both parties to be present.
- ~~(5)~~ (6) **In the case of a hearing before the review board, the** ~~unemployment insurance~~ review board has determined that a hearing by telephone is proper and just.

SECTION 35. IC 22-4-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the board, ~~the department~~, the review board, an administrative law judge, or the duly authorized representative of any of them in obedience to the subpoena of any of them in any cause or proceeding before any of them on the ground that the testimony or evidence, documentary or otherwise, required of ~~him~~ **the person** may tend to incriminate ~~him~~ **the person** or subject ~~him~~ **the person** to a penalty or forfeiture, but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which ~~he~~ **the person** is compelled after having claimed ~~his~~ **the** privilege against self-incrimination to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Any testimony or evidence submitted in due course before the board, ~~the department~~, the review board, an administrative law judge, or any duly authorized

representative of any of them shall be deemed a communication presumptively privileged with respect to any civil action except actions to enforce the provisions of this article.

SECTION 36. IC 22-4-17-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) This section applies to notices given under sections 2, 3, 11, and 12 of this chapter. This section does not apply to rules adopted by the board **or the department**, unless specifically provided.

(b) As used in this section, "notices" includes mailings of notices, determinations, decisions, orders, motions, or the filing of any document with the appellate division or review board.

(c) If a notice is served through the United States mail, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the appellate division or review board is complete on the earliest of the following dates that apply to the filing:

- (1) The date on which the document is delivered to the appellate division or review board.
- (2) The date of the postmark on the envelope containing the document if the document is mailed to the appellate division or review board by the United States Postal Service.
- (3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the appellate division or review board by a private carrier.

SECTION 37. IC 22-4-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The Indiana unemployment insurance board is created. The board is responsible for **the oversight of** the unemployment insurance program. The board shall report annually to the governor on the status of unemployment insurance together with recommendations for maintaining the solvency of the unemployment insurance benefit fund. The department staff shall provide support to the board. The unemployment insurance board shall consist of nine (9) members, who shall be appointed by the governor, as follows:

- (1) Four (4) members shall be appointed as representatives of labor and its interests.
- (2) One (1) member shall be appointed as a representative of the state and its interest and of the public at large.
- (3) Two (2) members shall be appointed as representatives of the large employers of the state.
- (4) Two (2) members shall be appointed as representatives of the independent merchants and small employers of the state.

All appointments shall be made for terms of four (4) years. All appointments to full terms or to fill vacancies shall be made so that all terms end on March 31.

(b) Every Indiana unemployment insurance board member so appointed shall serve until a successor shall have been appointed and qualified. Before entering upon the discharge of official duties, each member of the board shall take and subscribe to an oath of office, which shall be filed in the office of the secretary of state. Any vacancy occurring in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term. The

governor may, at any time, remove any member of the board for misconduct, incapacity, or neglect of duty. Each member of the board shall be entitled to receive as compensation for the member's services the sum of one hundred dollars (\$100) per month for each and every month which ~~he~~ **the member** devotes to the actual performance of the member's duties, as prescribed in this article, but the total amount of such compensation shall not exceed the sum of twelve hundred dollars (\$1,200) per year. In addition to the compensation hereinbefore prescribed, each member of the board shall be entitled to receive the amount of traveling and other necessary expenses actually incurred while engaged in the performance of official duties.

(c) The board ~~shall~~ **may** hold one (1) regular meeting each month and such called meetings as may be deemed necessary **by the commissioner or the board**. The April meeting shall be known as the annual meeting. Five (5) members of the board constitute a quorum for the transaction of business. At its first meeting and at each annual meeting held thereafter, the board shall organize by the election of a president and vice president from its own number, each of whom, except those first elected, shall serve for a term of one (1) year and until a successor is elected.

SECTION 38. IC 22-4-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~It shall be the duty of The board to administer the provisions of this article and, in addition to all other powers conferred on the board,~~ it shall have the power and authority to adopt, amend, or rescind such rules and regulations to employ such persons, make such expenditures, require such reports, make such investigations and take such other action as it may deem necessary or suitable for the proper administration of this article. All rules and regulations issued under the provisions of this article shall be effective upon publication in the manner hereinafter provided and shall have the force and effect of law. The board may prescribe the extent, if any, to which any rule or regulation so issued or legal interpretation of this article shall be with or without retroactive effect. Whenever the board believes that a change in contribution or benefit rates will become necessary to protect the solvency of the **unemployment insurance benefit** fund, it shall promptly so inform the governor and the general assembly, and make recommendations with respect thereto.

SECTION 39. IC 22-4-19-6, AS AMENDED BY P.L.4-2005, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

- (1) open to inspection; and
- (2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The ~~commissioner,~~ **department**, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the

unemployment tax, the skills 2016 assessment under IC 22-4-10.5-3, or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The ~~commissioner~~ **department** may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The ~~commissioner~~ **department** may release the following information:

- (1) Summary statistical data may be released to the public.
- (2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:
 - (A) The purpose of conducting a survey.
 - (B) The purpose of aiding the officers or employees of the Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.
 - (C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with those of the department.
- (3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency only for aiding the employees of the budget agency in forecasting tax revenues.
- (4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:
 - (A) department of state revenue; or
 - (B) state or local law enforcement agencies;
 only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The ~~commissioner~~ **department** may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

- (1) if:
 - (A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or
 - (B) there is an agreement that the employer specific information released to the Indiana economic development corporation or the budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), **the fact that a claim has been made under IC 22-4-15-1(c)(8) and any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence is are confidential.** ~~This information~~ **concerning the claimant's current address or physical location** shall not be disclosed to the employer or any other person. Disclosure is subject to the following **additional** restrictions:

- (1) The claimant must be notified before any release of information.
- (2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

- (1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or
- (2) of any governmental entity listed in subsection (d)(4) ~~of this chapter~~ who recklessly violates subsection (d)(4); ~~of this chapter~~;

commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation or the budget agency who violates subsection (d) or (e) commits a Class B misdemeanor.

(i) An employer or agent of an employer that becomes aware that a claim has been made under IC 22-4-15-1(c)(8) shall maintain that information as confidential.

SECTION 40. IC 22-4-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. In any case where an employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, shall fail or refuse upon demand by the board, **the department**, the review board, or an administrative law judge, or the duly authorized representative of any of them, to produce or permit the examination or copying of any book, paper, account, record, or other data pertaining to payrolls or employment or ownership of interests or stock in any employing unit, or bearing upon the correctness of any contribution report or the skills 2016 training assessment under IC 22-4-10.5-3, or for the purpose of making a report as required by this article where none has been made, then and in that event the board, **the department**, the review board, or the administrative law judge, or the duly authorized representative of any of them, may by issuance of a subpoena require the attendance of such employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, and take testimony with respect to any such matter and may require any such person to produce any books or records specified in such subpoena.

SECTION 41. IC 22-4-19-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The board, **the department**, the review board, or the administrative law judge, or the duly authorized representative of any of them, at any such hearing shall have power to administer oaths to any such person or persons. When any person called as a witness by such subpoena, duly signed, and served upon ~~him~~ **the witness** by any duly authorized person or by

the sheriff of the county of which such person is a resident, or wherein is located the principal office of such employing unit or wherein such records are located or kept, shall fail to obey such subpoena to appear before the board, **the department**, the review board, or the administrative law judge, or the authorized representative of any of them, or shall refuse to testify or to answer any questions, or to produce any book, record, paper, or other data when notified and demanded so to do, such failure or refusal shall be reported to the attorney general for the state of Indiana who shall thereupon institute proceedings by the filing of a petition in the name of the state of Indiana on the relation of the board, in the circuit court or superior or other court of competent jurisdiction of the county where such witness resides, or wherein such records are located or kept, to compel obedience of and by such witness.

(b) Such petition shall set forth the facts and circumstances of the demand for and refusal or failure to permit the examination or copying of such records or the failure or refusal of such witness to testify in answer to such subpoena or to produce the records so required by such subpoena. Such court, upon the filing and docketing of such petition shall thereupon promptly issue an order to the defendants named in said petition, to produce forthwith in such court or at a place in such county designated in such order, for the examination or copying by the board, **the department**, the review board, an administrative law judge, or the duly authorized representative of any of them, the records, books, or documents so described and to testify concerning matters described in such petition. Unless such defendants to such petition shall appear in said court upon a day specified in such order, which said day shall be not more than ten (10) days after the date of issuance of such order, and offer, under oath, good and sufficient reasons why such examination or copying should not be permitted, or why such subpoena should not be obeyed, such court shall thereupon deliver to the board, **the department**, the review board, **the** administrative law judge, or representative of any of them, for examination or copying, the records, books and documents so described in said petition and so produced in such court and shall order said defendants to appear in answer to the subpoena, and to testify concerning the subject matter of the inquiry. Any employing unit, or any officer, member, or agent thereof, or any other persons having possession of the records thereof who shall willfully disobey such order of the court after the same shall have been served upon him, shall be guilty of indirect contempt of such court from which such order shall have issued and may be adjudged in contempt of said court and punished therefor as provided by law.

SECTION 42. IC 22-4-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The commissioner is authorized to enter into reciprocal agreements with the proper agencies under the laws of other states or jurisdictions or of the United States, which agreements shall become effective after filing with the secretary of state ~~pursuant to IC 22-4-19-2~~, **in accordance with rules adopted by the department under IC 4-22-2**, by the terms of which agreements:

(1) potential rights to benefits accumulated under the unemployment compensation laws of one (1) or more states or

jurisdictions or of the United States, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the commissioner finds will be fair and reasonable to all affected interests and which will not result in any substantial loss to the fund; and

(2) wages or services in employment subject to an unemployment compensation law of another state or of the United States shall be deemed to be wages in employment for employers for the purpose of determining an individual's rights to unemployment compensation benefits under this article, and wages in employment for employers as defined in this article shall be deemed to be wages or services on the basis of which unemployment compensation under the law of another state or of the United States is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the unemployment insurance benefit fund for such of the unemployment compensation benefits paid under this part upon the basis of such wages or services, and provisions for reimbursements from the unemployment insurance benefit fund for such of the compensation paid under such other law upon the basis of wages for employment as defined in this article as the commissioner finds will be fair and reasonable to all affected interests.

SECTION 43. IC 22-4-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. In order that the administration of this article and the unemployment ~~compensation~~ **insurance** laws of other states or jurisdictions or of the United States of America will be promoted by cooperation between this state and such other states or jurisdictions or the appropriate agencies of the United States in exchanging services and making available facilities and information, the board ~~is and the department are~~ authorized to make such investigations, secure and transmit such information, make available such services and facilities, and exercise such of the other powers provided in this article with respect to the administration of this article as ~~it deems~~ **deemed** necessary or appropriate to facilitate the administration of any unemployment ~~compensation insurance~~ law and in like manner to accept and utilize information, services, and facilities made available to this state by the agency or jurisdiction charged with the administration of any such other unemployment ~~compensation insurance~~ law.

SECTION 44. IC 22-4-22-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) On request of an agency which administers an employment security law of another state or of a foreign government, and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law by reason of having knowingly made a false statement or misrepresentation of a material fact, or who has knowingly failed to disclose a material fact, with respect to a claim taken in this state as an agent for such agency, the ~~board~~ **department** may collect from such claimant for the liable state the amount of such benefits to be refunded to such agency.

(b) In any case in which under this subsection a claimant is liable to repay any amount to the agency of another state, or of a foreign government, such amounts may be collected without interest by civil

action in the name of the ~~board~~ **department** acting as agent for such agency.

SECTION 45. IC 22-4-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The department shall establish and maintain free public employment and training offices in such number and in such places as may be necessary for the proper administration of this article and for the purpose of performing such duties as are within the purview of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014 and any amendments thereto. The provisions of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014 are hereby declared accepted by the state in conformity with the terms of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014, and the state commits itself to the observation of and compliance with the requirements of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014, and the department is constituted the agency of the state for all purposes of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014. All duties and powers conferred upon any other department, agency, or officer of the state relating to the establishment, maintenance, and operation of free public employment offices shall be vested in the ~~board~~ **department**. The ~~board~~ **department** being charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014, shall be and is authorized and empowered to do and perform all things necessary to secure to this state the benefits of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014. The department may cooperate with or enter into agreements with the railroad retirement board with respect to the establishment, maintenance, and use of free employment service facilities.

(b) The department may do all acts and things necessary or proper to carry out the powers expressly granted under this article.

SECTION 46. IC 22-4-25-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) **As used in this section, "fund" refers to the special employment and training services fund created under section 1 of this chapter.**

(b) **The commissioner may allocate an amount not to exceed two million dollars (\$2,000,000) annually from the fund to establish reemployment training accounts to provide training and reemployment services to department employees dislocated by:**

- (1) a reduction of funding for;**
- (2) a centralization or decentralization of; or**
- (3) the implementation of a more efficient technology or service delivery method in connection with;**

the programs and services provided under this article.

SECTION 47. IC 22-4-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The fund shall be administered exclusively for the purpose of this article, and money withdrawn therefrom, except for deposit in the unemployment insurance benefit fund and for refund, as provided in this article, and except for amounts credited to the account of this state pursuant to 42 U.S.C. 1103, as amended, which shall be used exclusively as provided in section 5 of this chapter, shall be used solely for the payment of benefits. Payment of benefits and refunds shall be made in accordance with the rules prescribed by the ~~board~~ **department** consistent with the provisions of this article. Withdrawals from the

fund except as provided in section 5 of this chapter shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody.

SECTION 48. IC 22-4-29-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. If the employing unit protests such assessment, upon written request it shall have an opportunity to be heard, and such hearing shall be conducted by a liability administrative law judge pursuant to the provisions of IC 22-4-32-1 through IC 22-4-32-15. After the hearing the liability administrative law judge shall immediately notify the employing unit in writing of the finding, and the assessment, if any, so made shall be final, in the absence of judicial review proceedings as provided in this article, ~~fifteen (15)~~ **thirty (30)** days after such notice **of appeal** is issued.

SECTION 49. IC 22-4-29-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The finality of such decision of the liability administrative law judge may be stayed for a period of thirty (30) days from the date of service of notice on the ~~board of intention to seek a judicial review~~ **department of the appeal** of said decision as provided in this article. ~~provided~~ Such notice ~~is must be~~ served within ~~fifteen (15)~~ **thirty (30)** days after notice of the decision of the liability administrative law judge is issued. If judicial review proceedings are not instituted within the time provided for in this article, the finality of said decision shall not be further stayed.

SECTION 50. IC 22-4-30-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Any employer against whom contributions shall be assessed as provided in this article shall be restrained and enjoined upon the order of the ~~board~~ **department** by proper proceedings instituted in the name of the state of Indiana, brought by the attorney general for the state of Indiana ~~and/or or~~ any prosecuting attorney at the request of the ~~board~~ **department**, from engaging ~~and/or or~~ continuing in business in this state until the contributions, interest, penalties, and damages shall have been paid and until such employer shall have complied with the provisions of this article; and such attorneys shall prosecute violations of criminal provisions of this article upon request of the ~~board~~ **department**.

SECTION 51. IC 22-4-31-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) If any contributions, interest, penalties, or damages assessed under this article, or any portion thereof, be not paid within one hundred twenty (120) days after the same is found to be due, a receiver may be appointed by the circuit or superior court of the county in which such employer resides or in which ~~he the employer~~ **the employer** is doing business or in which ~~its the employer's~~ **the employer's** resident agent is located in a proceeding requesting such appointment instituted against the said employer in the name of the state of Indiana, brought by the attorney general for the state of Indiana at the request of the ~~board~~ **department**.

(b) The court shall appoint a receiver when it finds that the employer has not paid the contributions or amounts due imposed by this article within one hundred twenty (120) days after the same is found to be due, and that contributions, interest, penalties, or damages, or any portion thereof, is unpaid and delinquent. Such cause

for the appointment of a receiver shall be in addition to all other causes or grounds provided by law for the appointment of receivers and shall be in addition to all other methods for the enforcement of this article.

(c) Each such receiver shall give bond and be sworn as provided for by law and shall have power under the control of the court to bring and defend actions, to take and keep possession of the property of the employer, to receive all funds and collect any debts due to the employer, in the receiver's name, and generally to do such acts respecting the property as the court shall authorize, and shall have all the powers granted to, or shall be subject to all the duties of, receivers under the laws of this state.

SECTION 52. IC 22-4-31-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) If, after due notice, any employing unit defaults in the payment of any contributions or other money payments required by this article, the amount due may be collected by civil action in the name of the state of Indiana on the relation of the ~~commissioner~~ **department**. Such civil action is not to be considered as the exclusive method for collection of the contributions or money payments but is in addition to the method provided in IC 22-4-29-2 through IC 22-4-29-12 and is to be brought only in such cases as the ~~board~~ **department** may deem advisable in the interest of necessity and convenience.

(b) Unless the employing unit prevails in a civil action brought under this chapter, the court may award costs, including reasonable attorney's fees, incurred by the state in bringing the action.

SECTION 53. IC 22-4-31-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. It is expressly provided that the foregoing remedies shall be cumulative and shall be in addition to all other existing remedies, and that no action taken by the ~~board~~ **department** or its duly authorized representative, the attorney general for the state of Indiana, or any other officer shall be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other remedy.

SECTION 54. IC 22-4-32-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. **A liability administrative law judge shall hear** all matters pertaining to:

- (1) the assessment of contributions, penalties, and interest;
- (2) which accounts, if any, benefits paid, or finally ordered to be paid, should be charged;
- (3) successorships, and related matters arising therefrom, including but not limited to:
 - (A) the transfer of accounts; ~~and~~
 - (B) the determination of rates of contribution; and
 - (C) **determinations under IC 22-4-11.5; and**
- (4) claims for refunds of contributions, skills 2016 training assessments, or adjustments thereon in connection with subsequent contribution payments and skills 2016 training assessments;

~~shall be heard by a liability administrative law judge upon proper application for such hearing; for which an employing unit has timely filed a protest under section 4 of this chapter.~~

SECTION 55. IC 22-4-32-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The proceedings

before a liability administrative law judge shall be conducted in accordance with such rules of practice and procedure as the ~~board~~ **department** may ~~prescribe~~ **adopt** under its rulemaking authority ~~as contained in IC 22-4-19-2, under IC 22-4-18-1.~~ Any person representing any interested party in the prosecution or defense of any proceedings before a liability administrative law judge must be admitted to practice law in the courts of the state of Indiana, except that persons admitted to practice before the courts of other states may on special order be permitted to appear in any proceeding before the liability administrative law judge. ~~provided, however, that nothing in~~ This section shall ~~not be so~~ **not** be construed ~~as~~ to prohibit an interested party from electing to be heard in his own cause without counsel.

SECTION 56. IC 22-4-32-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. An employing unit shall have fifteen (15) **calendar** days, **beginning on the date an initial determination is mailed to the employing unit**, within which to protest in writing ~~an initial determinations determination~~ of the ~~commissioner~~ **department** with respect to:

- (1) the assessments of contributions, penalties, and interest;
- (2) the transfer of charges from an employer's account;
- (3) merit rate calculations;
- (4) successorships;
- (5) the denial of claims for refunds and adjustments; and
- ~~(6) a protest arising from an initial determination of the director relating to any matter listed in subdivisions (1) through (5);~~
- (6) a determination under IC 22-4-11.5.**

~~The fifteen (15) day period shall commence with the day following the day upon which the initial determination or denial of claim for refund or adjustment is mailed to the employing unit.~~

SECTION 57. IC 22-4-32-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. After the hearing the liability administrative law judge shall as soon as practicable notify the interested parties in writing of the finding and decision of the liability administrative law judge, which shall become final ~~fifteen (15)~~ **thirty (30)** days thereafter in the absence of ~~judicial review proceedings~~ **the filing of a notice of appeal** as provided in this chapter.

SECTION 58. IC 22-4-32-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. A notice of ~~intention to institute judicial review proceedings~~ **appeal** shall be a ~~prerequisite to such action; shall be~~ served on the adverse party at any time before ~~said~~ the decision of the liability administrative law judge becomes final, and shall stay the finality of ~~said the~~ decision for a ~~period of thirty (30) days from the service of such notice. and~~ If such appeal is perfected, further proceedings shall be stayed pending the final determination of said appeal. ~~provided; further, that~~ If an appeal from ~~such the~~ decision of the liability administrative law judge is not perfected within the time provided for by this article, no action or proceeding shall be further stayed.

SECTION 59. IC 22-4-32-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. The ~~board,~~ **department**, by rule, may require the appellant to deposit with the department an amount sufficient to pay the actual costs of preparing the transcript of the record of the proceedings before the liability

administrative law judge before preparing the same.

SECTION 60. IC 22-4-32-19, AS AMENDED BY P.L.202-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. **(a) The department may grant an application for adjustment or refund, make an adjustment or refund, or set off a refund as follows:**

(1) (a) At any time within Not later than four (4) years after the date upon which any contributions, skills 2016 training assessments under IC 22-4-10.5-3, or interest thereon were paid, an employing unit which has paid such contributions, skills 2016 training assessments, or interest thereon may make application for **an adjustment or** a refund of such contributions, skills 2016 training assessments, or an adjustment thereon in connection with subsequent contribution payments or skills 2016 training assessments. The ~~commissioner~~ **department** shall thereupon determine whether or not such contribution or skills 2016 training assessment, or interest or any portion thereof, was erroneously paid or wrongfully assessed. ~~and notify the employing unit in writing of its decision.~~

(b) Such decision shall constitute the initial determination referred to in section 4 of this chapter and shall be subject to hearing and review as provided in sections 1 through 15 of this chapter.

(c) (2) The commissioner department may grant such application in whole or in part and may ~~allow the employing unit to make an adjustment, thereof without interest, in connection with subsequent contribution payments or skills 2016 training assessments, if such adjustment cannot be made, the commissioner may~~ or refund such amounts, without interest, from the fund. ~~For like cause and within the same period;~~ Adjustments or refund may be made on the commissioner's own initiative.

(3) Any adjustments or refunds of interest or penalties collected for contributions due under IC 22-4-10-1 shall be charged to and paid from the special employment and training services fund created by IC 22-4-25. Any adjustments or refunds of interest or penalties collected for skills 2016 training assessments due under IC 22-4-10.5-3 shall be charged to and paid from the skills 2016 training fund established by IC 5-28-27-3.

(4) The department may set off any refund available to an employer under this section against any delinquent contributions, payments in lieu of contributions, skills 2016 training assessments, and the interest and penalties, if any, related to the delinquent payments and assessments.

(b) Any decision by the department to:

- (1) grant an application for adjustment or refund;**
- (2) make an adjustment or refund on its own initiative; or**
- (3) set off a refund;**

constitutes the initial determination referred to in section 4 of this chapter and is subject to hearing and review as provided in sections 1 through 15 of this chapter.

(d) (c) If any assessment has become final by virtue of a decision of a liability administrative law judge with the result that no proceeding for judicial review as provided in this article was

instituted, no refund or adjustment with respect to such assessment shall be made.

SECTION 61. IC 22-4-32-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. (a) This section applies to notices given under sections 4, 7, 8, and 9 of this chapter.

(b) As used in this section, "notices" includes mailings pertaining to:

- (1) the assessment of contributions, skills 2016 training assessments under IC 22-4-10.5-3, penalties, and interest;
- (2) the transfer of charges from an employer's account;
- (3) successorships and related matters arising from successorships;
- (4) claims for refunds and adjustments;
- (5) violations under IC 22-4-11.5;**
- ~~(5) (6)~~ **(6)** decisions; and
- ~~(6) (7)~~ **(7)** notices of intention to appeal or seek judicial review.

(c) If a notice under this chapter is served through the United States Postal Service, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the ~~appellate~~ **unemployment insurance appeals** division or review board is complete on the earliest of the following dates that apply to the filing:

- (1) The date on which the document is delivered to the ~~appellate~~ **unemployment insurance appeals** division or review board.
- (2) The date of the postmark on the envelope containing the document if the document is mailed to the ~~appellate~~ **unemployment insurance appeals** division or review board by the United States Postal Service.
- (3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the ~~appellate~~ **unemployment insurance appeals** division or review board by a private carrier.

SECTION 62. IC 22-4-34-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. A person who knowingly fails to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, in obedience to a subpoena of the board, ~~the department,~~ the review board, an administrative law judge, or any duly authorized representative of any of them, commits a Class C misdemeanor. Each day a violation continues constitutes a separate offense.

SECTION 63. IC 22-4-35-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. All criminal actions for violations of this article shall be prosecuted by the prosecuting attorney of any county, or with the assistance of the attorney general ~~or a United States attorney,~~ if requested by the commissioner, in which the employer has a place of business or the alleged violator resides.

SECTION 64. IC 22-4-37-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. It is declared to be the purpose of this article to secure to the state of Indiana and to employers and employees therein all the rights and benefits which are conferred under the provisions of 42 U.S.C. 501 through 504, 42 U.S.C. 1101 through 1109, 26 U.S.C. 3301 through 3311, and 29 U.S.C. 49 et seq., and the amendments thereto. Whenever the ~~board~~

department shall find it necessary, it shall have power to formulate rules after public hearing and opportunity to be heard whereof due notice is given as is provided in this article for the adoption of rules pursuant to ~~IC 22-4-19-2~~, **IC 4-22-2**, and with the approval of the governor of Indiana, to adopt such rules as shall effectuate the declared purposes of this article.

SECTION 65. IC 22-4-37-3, AS AMENDED BY P.L.214-2005, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) Should:

(1) the Congress of the United States amend, repeal, or authorize the implementation of a demonstration project under 29 U.S.C. 49 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26 U.S.C. 3101 through 3504, or any statute or statutes supplemental to or in lieu thereof or any part or parts of said statutes, or should any or all of said statutes or any part or parts thereof be held invalid, to the end and with such effect that appropriations of funds by the said Congress and grants thereof to the state for the payment of costs of administration of the department ~~of workforce development~~ are or no longer shall be available for such purposes; ~~or should~~

(2) the primary responsibility for the administration of 26 U.S.C. 3301 through 26 U.S.C. 3311 be transferred to the state as a demonstration project authorized by Congress; ~~or should~~

(3) employers in Indiana subject to the payment of tax under 26 U.S.C. 3301 through 3311 be granted full credit upon such tax for contributions or taxes paid to the department; ~~of workforce development~~

then, beginning with the effective date of such change in liability for payment of such federal tax and for each year thereafter, the normal contribution rate under this article shall be established by the department ~~of workforce development~~ and may not exceed three and one-half percent (3.5%) per year of each employer's payroll subject to contribution. With respect to each employer having a rate of contribution for such year pursuant to terms of IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B), **IC 22-4-11-2(c)**, IC 22-4-11-3, ~~and~~ IC 22-4-11-3.3, **and IC 22-4-11.5**, to the rate of contribution, as determined for such year in which such change occurs, shall be added not more than eight-tenths percent (0.8%) as prescribed by the department. ~~of workforce development~~.

(b) The amount of the excess of tax for which such employer is or may become liable by reason of this section over the amount which such employer would pay or become liable for except for the provisions of this section, together with any interest or earnings thereon, shall be paid and transferred into the employment and training services administration fund to be disbursed and paid out under the same conditions and for the same purposes as is other money provided to be paid into such fund. If the commissioner shall determine that as of January 1 of any year there is an excess in said fund over the money and funds required to be disbursed therefrom for the purposes thereof for such year, then and in such cases an amount equal to such excess, as determined by the commissioner, shall be transferred to and become part of the unemployment insurance benefit fund, and such funds shall be deemed to be and are hereby appropriated for the purposes set out in this section.

SECTION 66. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 22-4-16-1; IC 22-4-19-2; IC 22-4-19-3.

SECTION 67. **An emergency is declared for this act.**

(Reference is to ESB 321 as reprinted March 1, 2006.)

Kruse, Chair

Torr

Craycraft

Stilwell

Senate Conferees

House Conferees

Roll Call 371: yeas 50, nays 0. Report adopted.

SENATE MOTION

Madam President: I move that Senator Sipes be added as coauthor of Senate Resolution 41.

RIEGSECKER

Motion prevailed.

JOINT RULE 20 COMMITTEE REPORTS

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed House Bill 1158 because it conflicts with House Enrolled Act 1123-2006 and HEA 1040-2006 without properly recognizing the existence of HEA 1123-2006 and HEA 1040-2006, has had EHB 1158 under consideration and begs leave to report back to the Senate with the recommendation that EHB 1158 be corrected as follows:

Page 8, line 14, delete "P.L.176-2005," and insert "HEA 1123-2006, SECTION 3,".

Page 8, line 15, delete "SECTION 16,".

Page 9, line 33, delete "fund" and insert "account".

Page 9, line 34, delete "IC 16-19-13-6" and insert "IC 4-23-25-11(i)".

Page 14, line 19, after "IC 33-37-7-11" insert ", AS AMENDED BY HEA 1040-2006, SECTION 512,".

Page 14, line 27, delete "3 or".

(Reference is to EHB 1158 as reprinted March 2, 2006.)

GARTON, Chair

R. YOUNG, R.M.M.

BRAY

Report adopted.

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 84 because it conflicts with SEA 246-2006 without properly recognizing the existence of SEA 246-2006, has had ESB 84 under consideration and begs leave to report back to the Senate with the recommendation that ESB 84 be corrected as follows:

Page 1, line 1, after "IC 11-13-3-4" insert ", AS AMENDED BY SEA 246-2006, SECTION 2,".

Page 3, line 1, delete "parole, unless the offender obtains written" and insert "parole;".

Page 3, line 2, delete "approval from the parole board;".

Page 3, line 5, after "offense" insert ".".

Page 3, line 5, delete "unless".

Page 3, delete lines 6 through 10.

Page 3, line 13, delete "confidential, even if the offender obtains a waiver under" and insert "confidential".

Page 3, delete line 14.

(Reference is to ESB 84 as printed February 14, 2006.)

GARTON, Chair
R. YOUNG, R.M.M.
LONG

Report adopted.

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 296 because it conflicts with House Enrolled Act 300-2006 without properly recognizing the existence of HEA 300-2006, has had ESB 296 under consideration and begs leave to report back to the Senate with the recommendation that ESB 296 be corrected as follows:

Page 1, line 1, after "IC 5-2-6.1-41" insert ", AS AMENDED BY SEA 300-2006, SECTION 19,".

Page 1, line 4, reset in roman "IC 34-51-3-6,".

(Reference is to ESB 296 as printed February 22, 2006.)

GARTON, Chair
R. YOUNG, R.M.M.
KENLEY

Report adopted.

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed House Bill 1212 because it conflicts with Senate Enrolled Act 71-2006 without properly recognizing the existence of SEA 71-2006, has had EHB 1212 under consideration and begs leave to report back to the Senate with the recommendation that EHB 1212 be corrected as follows:

Page 25, delete lines 28 through 29, begin a new line block indented and insert:

"(4) The exemptions under IC 6-1.1-10-2, IC 6-1.1-10-4, and IC 6-1.1-10-5 do not apply to assessments imposed under this chapter.

(d) Not later than June 1 of each year, the county treasurer shall, in the manner specified by the state land office, send to the state land office a list of all properties:

(1) for which one (1) or more assessment payments under this section are delinquent; and

(2) that are owned by:

(A) the state; or

(B) a state agency."

(Reference is to EHB 1212 as reprinted March 2, 2006.)

GARTON, Chair
R. YOUNG, R.M.M.
FORD

Report adopted.

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 362 because it conflicts with Senate Enrolled Act 132-2006 without properly recognizing the existence of SEA 132-2006, has had ESB 362 under consideration and begs leave to report back to the Senate with the recommendation that ESB 362 be corrected as follows:

Page 6, line 9, after "IC 6-8.1-7-1" insert ", AS AMENDED BY SEA 132-2006, SECTION 19,".

Page 6, line 39, delete "and".

Page 6, line 40, delete "children,".

Page 6, line 40, reset in roman "resources,".

(Reference is to ESB 362 as reprinted February 28, 2006.)

GARTON, Chair
R. YOUNG, R.M.M.
FORD

Report adopted.

SENATE MOTION

Madam President: I move we adjourn until 9:30 a.m., Tuesday, March 14, 2006.

GARTON

Motion prevailed.

The Senate adjourned at 8:28 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate